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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA; and)
THE STATE OF WASHINGTON;)

Plaintiffs,)

v.)

COUNTY OF SPOKANE; and)
KEY TRONIC CORPORATION;)

Defendants.)

Civil Action No. C89-033-RJM

EXHIBITS TO GOVERNMENTS'
MEMORANDUM IN SUPPORT OF
MOTION TO ENTER CONSENT
DECREE

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FEB 17 1989

SPokane, WA

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

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EXHIBIT
"A"

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 6TH AVENUE
SEATTLE, WASHINGTON

RECORD OF DECISION,
DECISION SUMMARY,
AND
RESPONSIVENESS SUMMARY

FOR

INTERIM FINAL REMEDIAL ACTION
COLBERT LANDFILL SITE
COLBERT, WASHINGTON

SEPTEMBER 1987

RECORD OF DECISION
REMEDIAL ALTERNATIVE SELECTION

SITE

Colbert Landfill Site
Colbert, Spokane County, Washington

PURPOSE

The decision document presents the selected interim final remedial action for this site, developed in accordance with the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA), and to the extent practicable the National Contingency Plan (NCP, 40 CFR Part 300). The State of Washington has been consulted and has concurred with the selected remedy.

BASIS

This decision is based upon the administrative record for the site, as obtained from the files of the U.S. Environmental Protection Agency (EPA) and the Washington State Department of Ecology. This record includes, but is not limited to, the following documents describing the site, the costs and effectiveness of the remedial alternatives, and community concerns:

- o Remedial Investigation Report for the Colbert Landfill, Spokane, Washington;
- o Feasibility Study Report for the Colbert Landfill, Spokane, Washington. (includes the Risk Assessment);

- o Decision Summary of Remedial Alternative Selection (attached hereto);
- o Responsiveness Summary (Appendix A); and
- o Staff summaries and briefing documents.

An index (Appendix D) identifies other items which are included in this administrative record.

DESCRIPTION

This Record of Decision addresses management of the migration of contamination using a groundwater interception system and attempts source control through extraction in the areas of highest contaminant concentrations.

The remedy is designed to:

- o prevent further spread of contaminated groundwater in two aquifers by installing and operating interception wells,
- o remove contaminated materials which have entered the aquifers and are contributing to the contaminant plume, by installing and operating extraction wells in the area where the plumes originate,
- o reduce the toxicity, mobility, and volume of the contaminants by treating all extracted groundwater from both interception and extraction wells, and
- o provide an alternate water supply system to any residents deprived of their domestic supply due to demonstrated contamination from the landfill or due to the action of the extraction or interception systems.

Treatment will be sufficient to reduce contaminant levels in the aquifers and in the wastewater effluent to or below performance standards. These have been set at the Maximum Contaminant Levels (MCLs, 40 CFR 141.61), or a similarly defined health-based level (a 10^{-6} risk level for carcinogenic constituents). Numeric values for these performance standards are presented in Table 1.

Treatment should be permanent, and should effectively reduce the toxicity, mobility, and volume of the contaminants. Any treatment system which will produce air emissions will be designed to meet any appropriate state Air Toxics Guidelines and to use Best Available Control Technology (BACT) on the effluent air stream.

In order to implement this remedial action, adequate monitoring will be required in private wells in the area of impact, as well as in monitoring wells as needed to assess progress of the remediation and performance of the containment system. Treated water effluents also will be monitored to assure that they meet the appropriate performance standards (Table 1). Treated water discharge shall at all times be consistent with U.S. and Washington State laws including but not limited to RCW 90.48 (Water Pollution Control) and WAC 173-218 (Underground Injection Control Program). Plume containment will be confirmed by installation and periodic sampling of monitoring wells and residential wells downgradient of the interception zone. Extraction will continue until all wells in contaminated zones show that the contaminants from the landfill have been reduced to and consistently remain below the health protection maximum levels.

Those residents who are deprived of domestic drinking water, either because their well water quality shows demonstrated contamination from the landfill or because the quantity available has been reduced by the action of the extraction and interception systems, will be connected to an adequate supply of safe drinking water for in-home domestic use. The present community water system serving the area, the Colbert Extension of the Whitworth Water District No. 1, may require upgrading to provide these supplies. The system will be designed to meet state public water system standards.

TABLE 1
PERFORMANCE STANDARDS
MAXIMUM ALLOWABLE CONTAMINANT CONCENTRATIONS

Health Protection Levels 1/

Contaminant	Maximum Concentration ($\mu\text{g/l}$)	Basis
1,1,1-Trichloroethane (TCA)	200	MCL
1,1-Dichloroethylene (DCE)	7	MCL
1,1-Dichloroethane (DCA)	4,050	MAC
Trichloroethylene (TCE)	5.0	MCL
Tetrachloroethylene (PCE)	0.7	10^{-6} cancer risk
Methylene Chloride (MC)	2.5	10^{-6} cancer risk

1/ Health Protection Levels are not to be exceeded, during operational life of remedial action, in effluents from groundwater treatment systems. Permanent reduction of contaminant concentrations below these levels throughout the site will indicate completion of the remedial action.

Institutional controls will be developed consistent with the final design to assure that the remedial action will continue to protect human health and the environment. Colbert Landfill will be closed to meet state Minimum Functional Standards for Landfill Closure (WAC 173-304-460), including capping, regrading, groundwater and gas monitoring and post-closure maintenance.

This is designed to be the final remedial action to be implemented at the Colbert Landfill site. It is an interim final action because the extraction and interception well systems will be in operation for decades before remediation is complete and changes in the selected action may be required during that period. The design therefore will be reassessed and adjusted periodically, at intervals not to exceed five years. It builds on the Interim Remedial Measure which provided alternate water supply, through the Colbert Extension of the Whitworth Water District No. 2, to residents whose wells had shown contamination from the landfill at levels above public health concern.

The performance standards described above will serve both as minimum treatment levels for effluents and as maximum residual levels for groundwater within the contaminant plumes. Completion of the treatment requirements is conditional upon reaching and maintaining contamination at concentrations below these maximum residual levels. The time required for this remedy is not presently known, but the entire treatment system will be reassessed by the EPA at intervals not to exceed five years.

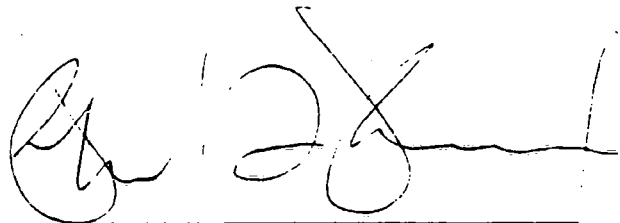
DECLARATION

Consistent with CERCLA, as amended by SARA, and the NCP, it is determined that the selected remedy as described above is protective of human health and the environment, attains Federal and State requirements which are applicable or relevant and appropriate, and is cost-effective. This remedy satisfies the preference expressed in SARA for treatment that reduces toxicity,

mobility or volume, as a principal element. Finally, it is determined that this remedy utilizes permanent solutions and alternative treatment technologies to the maximum extent practicable.

3-23-87

Date

A handwritten signature in dark ink, appearing to read 'Robie G. Russell', written over a horizontal line.

Robie G. Russell
Regional Administrator
Environmental Protection Agency
U.S. EPA - Region 10

DECISION SUMMARY
REMEDIAL ALTERNATIVE SELECTION
INTERIM FINAL REMEDIAL ACTION
COLBERT LANDFILL SITE, COLBERT, WASHINGTON

TABLE OF CONTENTS

<u>Section</u>	<u>Page</u>
I SITE LOCATION AND DESCRIPTION	1
II SITE HISTORY	5
Landfill History, Operations, and Regulatory Actions. .	5
Site Environment	8
Nature and Extent of Problem	12
Organic Contaminants Detected	12
Extent of Soil Contamination	12
Extent of Groundwater Contamination	16
Future Migration and Impacts of Contaminants-	
Upper Aquifer	22
Future Migration and Impacts of Contaminants -	
Lower Aquifer	25
Future Migration and Impacts of Contaminants -	
Surface Water	27
Risk Assessment	28
Risk Assessment of Contaminants	30
Risks to Human Health and the Environment . . .	30
III ENFORCEMENT	33
IV COMMUNITY RELATIONS HISTORY.	34
V ALTERNATIVES EVALUATION	36
Alternatives	36
Performance Criteria	37
Evaluation Methodology	39
Results	40

TABLE OF CONTENTS (Continued)

<u>Section</u>	<u>Page</u>
VI SELECTED REMEDY	46
Description	46
Statutory Determinations	53
VII REFERENCES	56

APPENDIX A - RESPONSIVENESS SUMMARY

APPENDIX B - APPLICABLE OR RELEVANT AND APPROPRIATE REQUIREMENTS

APPENDIX C - STATE CONCURRENCE WITH REMEDY

APPENDIX D - INDEX TO THE ADMINISTRATIVE RECORD

LIST OF FIGURES

<u>Figure No.</u>		<u>Page</u>
1	REGIONAL LOCATION MAP OF COLBERT LANDFILL SITE	2
2	COLBERT LANDFILL REMEDIAL ACTION SITE	3
3	SCHEMATIC CROSS-SECTION OF LITTLE SPOKANE RIVER VALLEY THROUGH COLBERT LANDFILL SITE SHOWING GEOLOGIC STRATIGRAPHY	10
4	RESIDENTIAL SUBDIVISIONS IN AND NEAR COLBERT LANDFILL SITE	13
5	DISTRIBUTION OF CONTAMINANTS IN UPPER AQUIFER	17
6	DISTRIBUTION OF CONTAMINANTS IN LOWER AQUIFER	18
7	SCHEMATIC OF DENSE, NONAQUEOUS PHASE LIQUID (DNAPL) MIGRATION BENEATH COLBERT LANDFILL	21
8	ESTIMATED POTENTIAL EXTENT OF CONTAMINATION IN UPPER AQUIFER IF PLUME IS NOT CONTAINED	23
9	ESTIMATED POTENTIAL EXTENT OF CONTAMINATION IN LOWER AQUIFER IF PLUME IS NOT CONTAINED	26
10	POSSIBLE REMEDIAL IMPLEMENTATION FOR SOUTHERN AREA (CONCEPTUAL DESIGN)	48
11	POSSIBLE REMEDIAL IMPLEMENTATION FOR WESTERN AREA (CONCEPTUAL DESIGN)	49
12	POSSIBLE REMEDIAL IMPLEMENTATION FOR EASTERN AREA (CONCEPTUAL DESIGN)	51

LIST OF TABLES

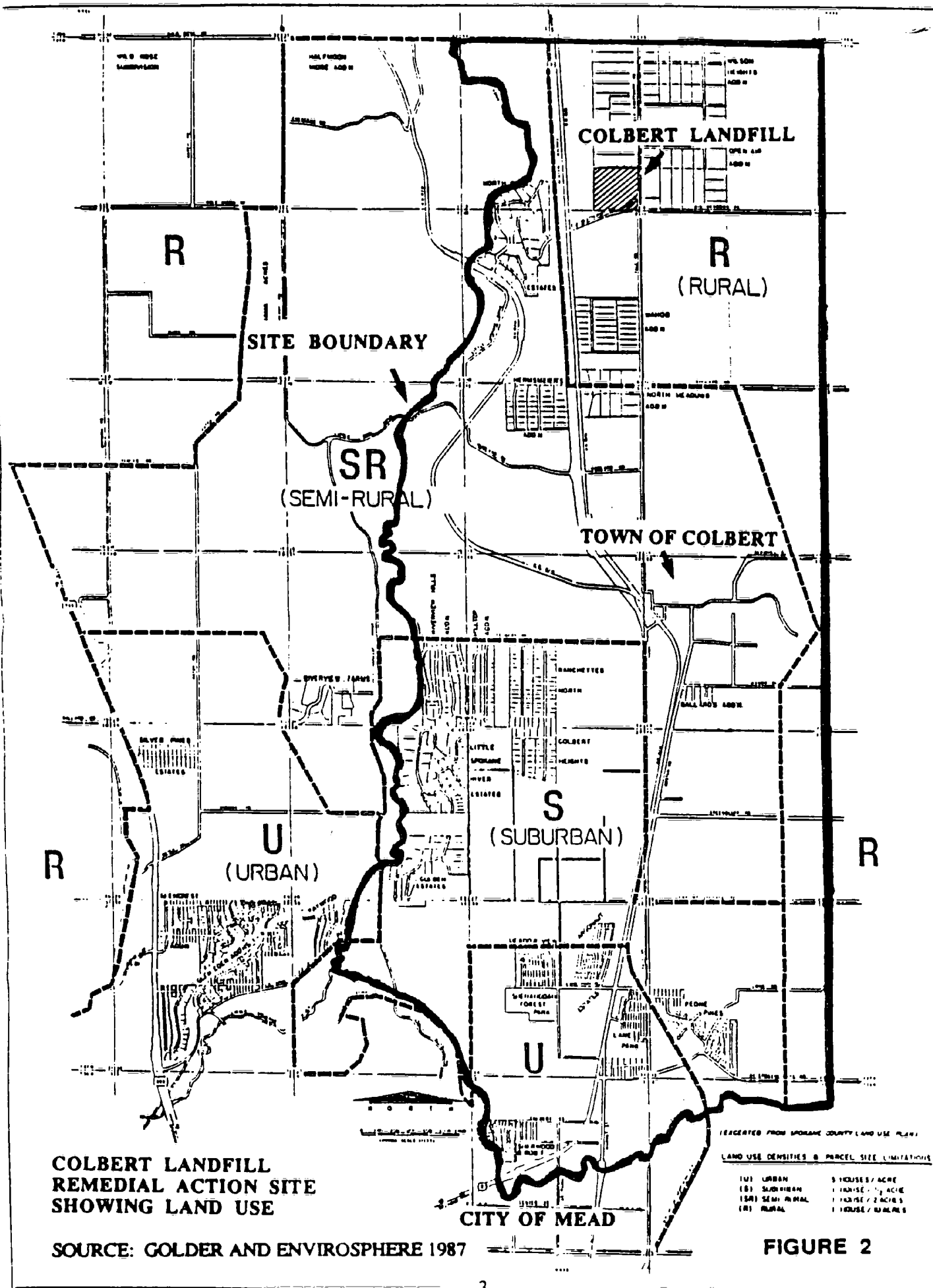
<u>Table No.</u>		<u>Page</u>
1	REPORTED SOLVENT MATERIALS DISPOSED AT THE COLBERT SITE	6
2	ORGANIC CONTAMINANTS FOUND IN COLBERT LANDFILL SITE GROUNDWATER DURING REMEDIAL INVESTIGATION . . .	14
3	MAXIMUM CONTAMINANT CONCENTRATIONS IN GROUNDWATER AT COLBERT LANDFILL SITE	19
4	ESTIMATED CONTAMINANT FLUXES IN LOWER AQUIFER AND RESULTANT FUTURE CONCENTRATIONS IN LITTLE SPOKANE RIVER	29
5	RESULTS OF RISK ASSESSMENT FOR INGESTION AND DERMAL EXPOSURE	31
6	PERFORMANCE STANDARDS - MAXIMUM ALLOWABLE CONTAMINANT CONCENTRATIONS (HEALTH PROTECTION LEVELS)	38
7	SUMMARY OF DETAILED EVALUATION 1985 RI/FS GUIDANCE FACTORS.	41
8	EVALUATION OF CERCLA SECTION 121(b)(1)(A-G) FACTORS . .	43

I. SITE LOCATION AND DESCRIPTION

The Colbert Landfill is a Spokane County-owned sanitary landfill that was operated from 1968 through 1986. The Colbert area is in northeastern Washington, in Spokane County, approximately 15 miles north-northeast of Spokane, Washington. The landfill covers 40-acres and is located about 2.5 miles north of the Town of Colbert and a half mile east of U.S. Highway 2 (Newport Highway) in the northwestern quadrant of the intersection of Elk-Chattaroy, Yale, and Big Meadows Roads. It is situated in the southeast corner of Section 3, Township 27 North, Range 43 East, W.M. (Figure 1). The landfill received both municipal and commercial wastes up to 1986, is now filled to capacity, and is no longer receiving waste.

The remedial action site, the area of potential impact surrounding the landfill, extends north of the landfill about a half mile, west about a mile to the Little Spokane River, east a similar distance, and south approximately five miles to Peone (or Deadman) Creek. The total area is approximately 6800 acres which includes parts of Sections 2, 3, 10, 11, 14, 15, 16, 21, 22, 23, 26, 27, 28, 33, 34, and 35 of the same township and range. The site is entirely within the drainage basin of the Little Spokane River, mainly on a plateau bounded by bluffs down to the river on the west and knobby granite and basalt hills to the east.

The area is semi-rural with an estimated population of about 1,500 people within a 3-mile radius of the landfill. There are residences on all sides of the landfill; however, the closest residences are located north and east. Land use within the remedial action site is predominantly suburban residential, with some agricultural use, mainly truck farming or livestock production. The land immediately surrounding the landfill is planned to remain rural, according to the Spokane County Generalized Comprehensive Plan (Figure 2), a designation which allows a maximum of one house every ten acres. West and south of this zone are found, successively, areas designated semi-rural (one house per two acres), suburban (one house per half acre), and urban (five houses per acre).



The population density is much lower than permitted because most of the area is vacant or agricultural; 1980 census data indicate approximately 6.5 persons per acre in the areas which include the semi-rural, suburban, and urban portions of the site.

Surface water resources include the Little Spokane River along the western edge of the area, Peone Creek on the southern edge, and Little Deep Creek flowing southwest through the middle of the site.

Groundwater in the area is obtained from several aquifers but mainly from the upper and lower sand and gravel aquifers which have become contaminated by releases from the landfill.

The presence of groundwater contamination in the aquifers has had socioeconomic impacts in the area. Many of the nearby homeowners operate their properties as small crop and livestock farms. Water was supplied only by local groundwater resources until 1984 when the Whitworth Water District extended service to the currently impacted area.

II. SITE HISTORY

LANDFILL HISTORY, OPERATIONS, AND REGULATORY ACTIONS

Colbert Landfill had been operated as a sanitary landfill by the Spokane County Utilities Department since it was opened in September 1968 to its cessation of operations in October 1986. During the five years from 1975 to 1980, a local electronics manufacturing company, Key Tronic Corporation, used the Colbert landfill to dispose of spent organic solvents, mainly methylene chloride (MC) and 1,1,1-trichloroethane (TCA), at an average rate of several hundred gallons a month (Table 1). These wastes were typically brought to the landfill in drums, and were poured out down the sides of open trenches to mix with the soil or ordinary municipal refuse already in the trench. During the same period a nearby military facility, Fairchild Air Force Base, also disposed of various solvent wastes at the site. A variety of other chemicals (such as pesticides and refinery tar residues) from other sources were also disposed at the site but have not, to date, been detected in the groundwater at the site.

In 1980 nearby residents complained to the Eastern Regional Office of the Washington Department of Ecology (Ecology) about these disposal practices. State and county officials, under the lead of the Spokane County Utilities Department, initiated an investigation into complaints of groundwater contamination in the area by sampling nearby private wells of which some were found to be contaminated with TCA.

In the following years, a number of studies have been directed toward the contamination problem at the Colbert Landfill. The original investigation, which was initiated in response to citizen complaints, was conducted by George Maddox and Associates. The Phase I study, carried out in 1981 (Maddox 1981), included a review of existing information on the site and some field study, and recommended a groundwater monitoring program. Phase II studies, carried out in 1982

TABLE 1

REPORTED SOLVENT MATERIALS DISPOSED AT THE COLBERT SITE

Source	Compound	Estimated Quantity (Gallons/Month)
Key Tronic Corporation	Methylene Chloride (20 - 25 percent acrylic resins by weight)	300 - 400
	1,1,1-trichloroethane (20 - 25 percent acrylic resins by weight)	150 - 200
	Mix of above (10 percent acrylic resins by weight)	100 - 150
Fairchild Air Force Base	Methyl Ethyl Ketone	25
	Poly Thinner	12.5
	Enamel Thinner	10
	Toluene	10
	Paint Remover	10
	Primer Wastes	10

Source: CH₂M Hill, 1983, p. 25.

(Maddox 1982), involved monitoring well installation, injection tests, and two rounds of groundwater quality sampling and analysis which also included selected private and purveyor wells.

In August 1983 the U.S. Environmental Protection Agency (EPA) placed the Colbert Landfill Site on its National Priorities List.

Subsequently, Spokane County and Key Tronic Corporation, who were both identified as potential responsible parties (PRPs), continued to have George Maddox and Associates sample and analyze well waters around the landfill (Spokane County and Key Tronic 1986). The EPA contracted CH₂M Hill to conduct a Remedial Action Master Plan (CH₂M Hill 1983) which presented a scope of work for an eventual Remedial Investigation / Feasibility Study (RI/FS). Also in 1983, Timothy D. Cook conducted an earth resistivity survey at the landfill site as part of a Masters Thesis (Cook 1985).

Beginning in 1984, bottled water supplies were distributed by Spokane County and Key Tronic Corporation to some of the households with high contamination levels in their wells. Ecology entered into a cooperative agreement with the EPA for conducting a RI/FS at the Colbert Landfill Site in August 1984. A "Focused Feasibility Study for Initial Remedial Measures at the Colbert Landfill" (Ecology 1984a) and a "Community Relations Plan for Remedial Measures at the Colbert Landfill" (Ecology 1984b) were developed in June 1984. The chosen Initial Remedial Measure (IRM) was to supply water to the affected area by constructing a pressurized water system through the Colbert Extension (System 9) of the Whitworth Water District No. 2. The hookup of affected residents to this system was subsidized, again by the PRPs, contingent on three conditions imposed by the PRPs:

- o Contamination of well water of more than the then-proposed MCL values, including a 200 µg/l limit for TCA
- o Proximity (less than 500 ft) to water supply mains
- o Signing of a hold-harmless agreement

Other residents, although not meeting these conditions, have also elected to receive this water supply at their own expense.

Ecology contracted Golder Associates to conduct a data review of the Colbert Landfill Site. They submitted their recommendation report in December 1984 (Golder 1984), and then developed a work plan for the Remedial Investigation (RI) which was submitted in January 1985. Authorization to conduct the RI was received in March 1985. A draft RI report was released for public review in May 1986 and the final RI report was completed in May 1987 (Golder 1987).

In the summer of 1985, the EPA contracted Lockheed-EMSCO to perform soil gas and earth resistivity surveys near the landfill. A subcontractor, Tracer Research Company, performed the soil gas survey for three of the detected chlorinated hydrocarbons while Lockheed conducted the resistivity survey. The County of Spokane and Key Tronic Corporation retained George Maddox and Associates and ABC Laboratory to continue monitoring of private wells in cooperation with the efforts of Ecology and Golder through 1985, 1986, and 1987.

In April 1986, Ecology authorized Golder to prepare a Feasibility Study (FS) based upon the RI. The FS was performed by Golder and their subcontractor, EnviroSphere Company, with input from Hall and Associates. The FS Final Report was submitted for public comment in May 1987 (Golder and EnviroSphere 1987).

SITE ENVIRONMENT

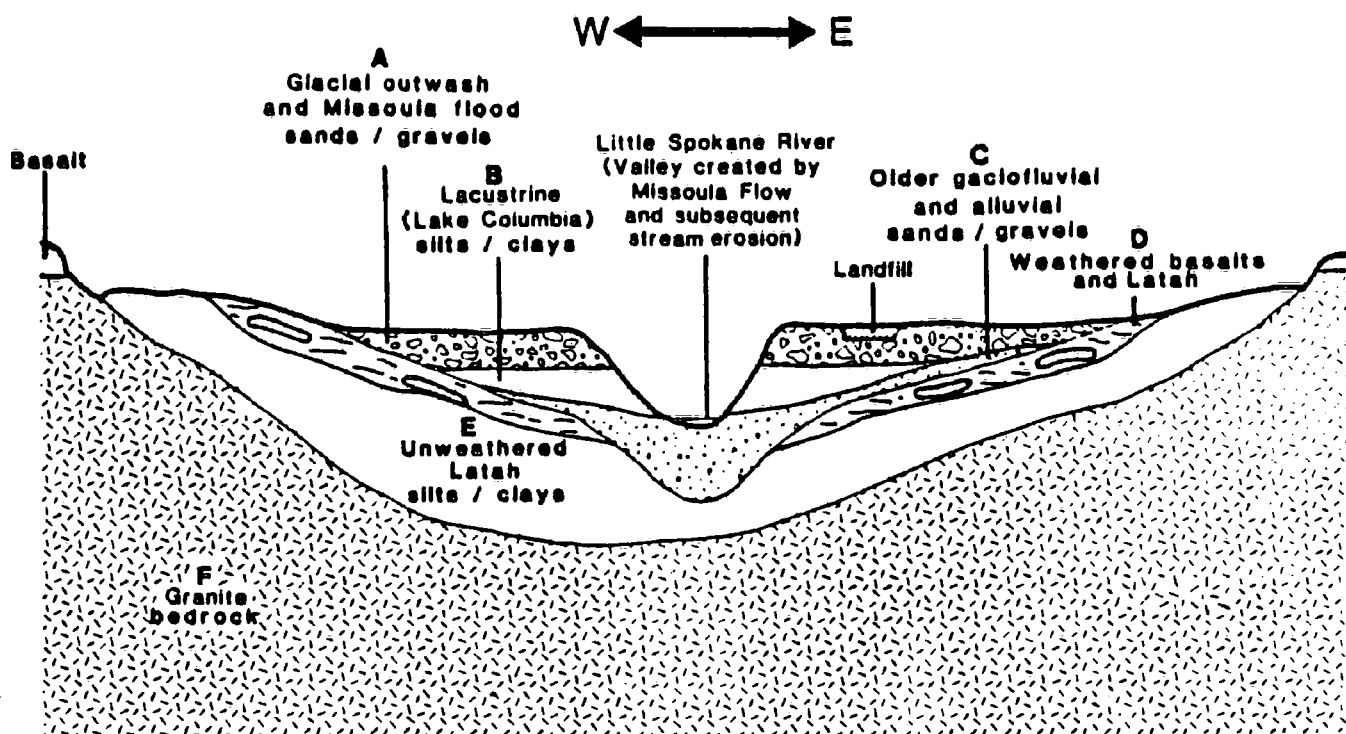
The site is in the drainage basin of the Little Spokane River, on a plateau bounded by bluffs down to the river on the west and knobby granite and basalt hills to the east. The climate is characteristic of eastern Washington with mild temperatures ranging from typical summer highs around 83°F to typical winter lows around 23°F, and a relatively low annual precipitation of approximately 17 inches falling mainly during the winter months of November through February (NOAA 1985).

The geology of the site consists of a series of glacially-derived materials laid down on an eroded landscape of clays, basaltic lava flows, and granitic bedrock. The stratigraphic units (layers) as described in the Remedial Investigation (Golder 1987), from youngest to oldest (i.e., from the top down), are:

- A. Glacial outwash/Missoula flood sands/gravels.
- B. Glacial Lake Columbia lacustrine silts/clays.
- C. Older glaciofluvial and/or alluvial sands/gravels.
- D. Weathered basalts and Latah (landslide deposits).
- E. Unweathered Latah silts/clays.
- F. Granite bedrock.

A schematic view of a cross-section of the Little Spokane River valley at the site of the landfill showing the general configuration of these units is provided in Figure 3.

This specific geological system can be hydrogeologically defined as containing three aquifers and three aquitards. There is an aquifer associated with Unit A - the glacial outwash/Missoula flood deposits which is designated as the upper sand/gravel aquifer. Unit B - The lacustrine silts/clays stratum is a relatively impermeable layer which acts as an aquitard. The second aquifer, located in Unit C - the older glaciofluvial and/or alluvial deposits, is called the lower sand/gravel aquifer. The weathered zone of the basalts and Latah, Unit D, may be considered an extension of the lower aquifer. The unweathered Latah silts/clays, Unit E, serves as the second aquitard. The upper fractured zone of granite, Unit F, is capable of water transmission and, although a poor producer in most areas, it could be considered as an aquifer while the deeper, less fractured portions of the bedrock serve as the confining lower boundary or aquitard to the entire regional flow system.



SCHEMATIC CROSS-SECTION OF
LITTLE SPOKANE RIVER VALLEY THROUGH COLBERT LANDFILL SITE
SHOWING GEOLOGIC STRATIGRAPHY

The upper aquifer is unconfined with a water table at an approximate elevation of 1,770 feet, 90 feet below ground surface in the area of the landfill. The thickness of the upper aquifer varies from 8 to 15 feet in the central channel, decreasing as it extends toward the western bluffs and eastern hills. Groundwater is flowing predominately toward the south with velocities ranging from 4 to 13 feet per day (ft/day). The lower aquifer is generally a confined system, with its potentiometric surface at an approximate elevation of 1,680 feet, 180 feet below ground surface in the same area. The thickness of the lower aquifer varies considerably from only a few feet, east of the landfill, to over 150 feet as it approaches the river valley, where the aquifer is hydraulically connected to the Little Spokane River. Groundwater in this lower sand/gravel aquifer flows predominately toward the west at velocities ranging from 2 to 12 ft/day. Northeast of the landfill, the lower aquifer is closer to the surface, and becomes unconfined, interconnecting with the upper aquifer.

Both aquifers would be classified as current sources of drinking water (Class IIA) according to the EPA Groundwater Classification System (EPA 1986).

The vegetation in the vicinity of the landfill is dominated by ponderosa pine, with an undergrowth of grasses that are green in the spring and dry-brown by summer. Along the Little Spokane River the forest is somewhat denser and includes more species of trees. This riparian zone also supports a variety of shrub species and broadleaved herbaceous plants in addition to grasses. Game animals, small birds, and small mammals inhabit the wooded areas, and the river supports a variety of aquatic species, including trout. Bald eagles are seen occasionally along the river, especially in winter. Much of the landfill site itself has been cleared of trees, generally leaving bare soil, with occasional patches of grasses and shrubs in unworked sections. Adjacent to the site are both wooded areas and private residences. Wildlife use of the landfill property is probably limited to birds, insects, and perhaps small reptiles and mammals, similar to species found in surrounding areas.

Most of the nearby residences are multiple-acre homesteads, although a number of residential subdivisions are located within a short distance of the landfill, including Wilson Heights, Open Air, Wahoo, North Meadows, and Hermsmeier Additions, and North Glen Estates (Figure 4). Several other residential subdivisions are located further south but still within the site (the total potential area of impact); these include Riverview Hills Addition, Hilltop Addition, Ranchettes North, Ballards Addition, Colbert Heights, Little Spokane River Estates, Golden Estates, Meadow View, Argonaut Estates, Lane Park, Peone Pines, and Sherwood and Robert. In addition, the site includes the town of Colbert and part of the City of Mead. The area is primarily semi-rural with limited agricultural land use consisting of part-time farming to produce garden vegetables and livestock.

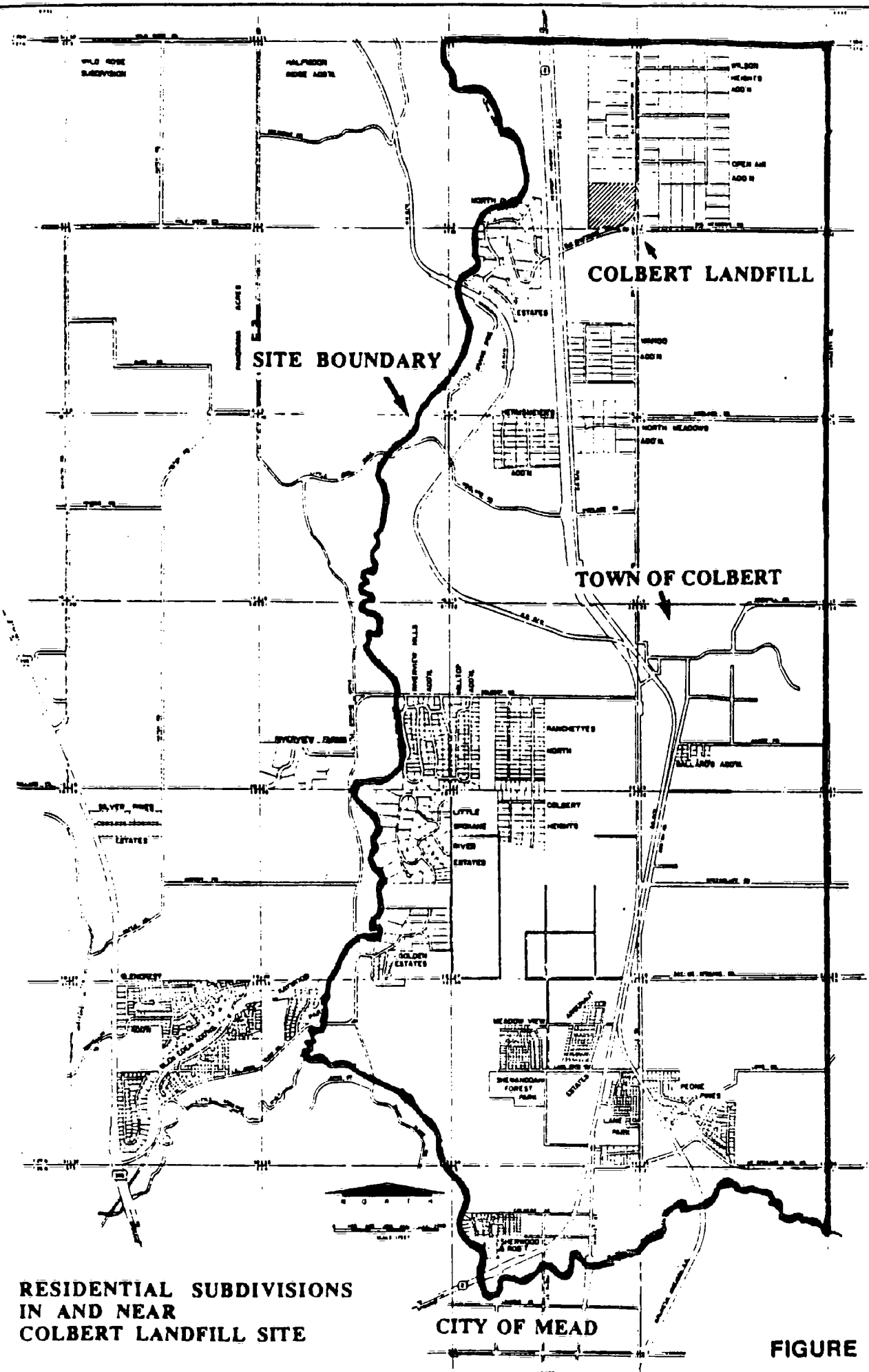
NATURE AND EXTENT OF PROBLEM

Organic Contaminants Detected

Six volatile organic chemicals, all chlorinated aliphatic hydrocarbons, were the main contaminants detected in the groundwater at the Colbert Landfill Site during the Remedial Investigation (Golder 1987) and are listed in Table 2. Several other contaminants were also detected in the RI samples, but occurred at lower concentrations or were less widely distributed (bottom of Table 2). Because they behave similarly to the above contaminants they were not considered separately for remediation. There is no potential for reuse or recycle of any organic contaminants that were detected at this site.

Extent of Soil Contamination

Although the contaminants placed into the landfill traversed a considerable thickness of unsaturated soil to reach the groundwater, the drilling program carried out during the RI found little trace of these chemicals in the soil samples obtained. This may be because



**RESIDENTIAL SUBDIVISIONS
IN AND NEAR
COLBERT LANDFILL SITE**

FIGURE 4

TABLE 2
ORGANIC CONTAMINANTS FOUND IN COLBERT LANDFILL
SITE GROUNDWATER DURING REMEDIAL INVESTIGATION

Contaminant	Number of Wells	Maximum Concentration ($\mu\text{g/l}$) ^{1/}
<u>Major Contaminants</u>		
1,1,1-Trichloroethane (TCA)	20	5,600
1,1-Dichloroethylene (DCE)	19	190
1,1-Dichloroethane (DCA)	19	600
Trichloroethylene (TCE)	11	230
Tetrachloroethylene (PCE)	9	23
Methylene Chloride (MC) (also called Dichloromethane)	11	2,500
<u>Lesser Contaminants</u>		
Acetone (also called Propanone)	3	445
Chloroform (also called Trichloromethane)	11	6
Methyl Ethyl Ketone (also called 2-Butanone)	2	14
1,2-Dichloroethane (also called Ethylene Dichloride)	2	5
1,2-trans-Dichloroethylene	5	12
Toluene (also called Methyl Benzene)	2	<1

^{1/} In this report, all organic contaminant concentrations will be presented in the units of micrograms (μg) of chemical per liter (l) of water. This conventional unit of measurement is essentially equivalent to parts per billion (ppb).

borings happened to be placed outside of areas where the solvents were actually disposed, or due to a combination of influences from drilling procedures (volatilization of the compounds by the air circulation of the air rotary drilling) and from natural forces which have had sufficient time to drive off virtually all the contamination which might have originally adsorbed onto the soil particles. The only contaminant of concern which was detected in any of the soil samples from auger or well borings was methylene chloride (MC). It was measured at levels of about 4 milligrams per kilogram (mg/kg) in auger borings from the intermediate cover and garbage within the landfill. This was unexpected since MC had not been detected in the upper aquifer beneath the landfill. Similar concentrations of MC were also detected in well borings of the lower aquifer in the immediate vicinity of the landfill. For these deeper borings, the presence of MC was probably due to its lower volatilization compared to the other contaminants, and the presence of higher MC levels in the lower aquifer. It should also be noted that MC is a common laboratory chemical and when it is found at low concentrations, it is possible that it was introduced accidentally during analysis.

Another form in which contamination exists in the vicinity of the landfill is in the soil atmosphere. Chapter 3 of the RI Report (Golder 1987) describes the soil atmosphere survey carried out in August 1985 by Tracer Research (Marrin 1986). They tested for three of the contaminants known to exist in the groundwater, TCA, TCE, and PCE, at probe depths of 3 to 5 feet. Draft results for TCA were presented in Figure 3-3 of the RI Report, and showed detectable levels of soil gas contamination over much of the area where groundwater contamination has been found, both in the upper and lower aquifers. Maximum soil gas concentrations of TCA were in the 100-200 $\mu\text{g/l}$ level (except for one reading of 940 $\mu\text{g/l}$) and were generally found in a semicircular pattern around and to the east of the landfill, an area where "secondary sources" of the contaminants are suspected to lie. Secondary sources are points where contaminants migrating from their original disposal site collected and from which contaminants are now migrating.

Much lower levels of TCE and PCE than TCA were detected in the soil atmosphere during this investigation. According to Marrin (1986), the highest quantified soil gas concentration of TCE at 0.09 $\mu\text{g/l}$ was measured southwest of the landfill. However, an area to the northeast of the landfill is identified as having possibly higher concentrations. This is the same area where secondary sources of contamination are suspected. For PCE, the highest measured soil gas concentration was 1 $\mu\text{g/l}$ northwest of the landfill, in the vicinity of the highest levels of PCE groundwater contamination (23 $\mu\text{g/l}$) found during the RI.

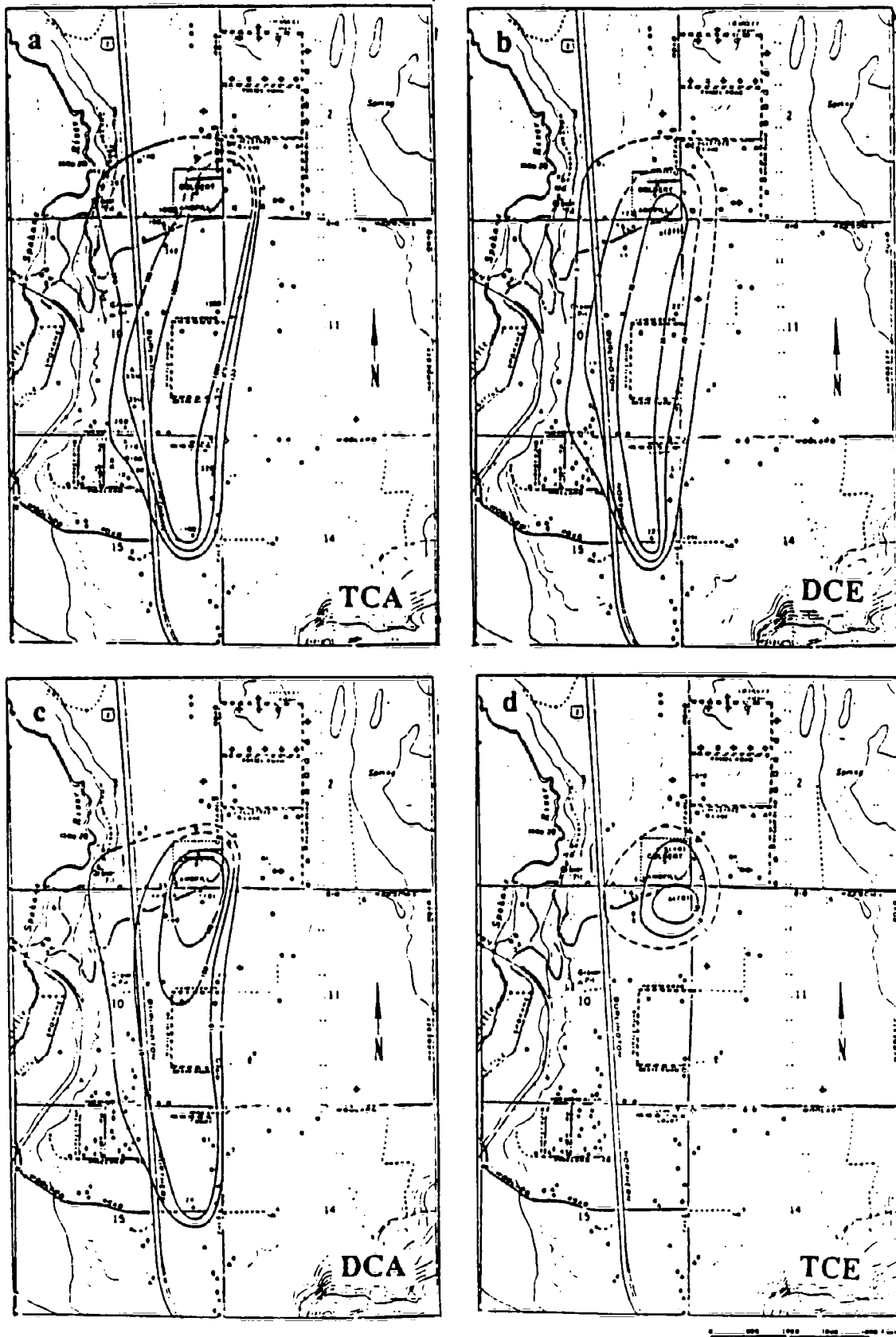
Extent of Groundwater Contamination

Contour maps included in the RI Report (Figures 5-17 through 5-25 of Golder 1987) show the distribution of the contaminants of concern in the two aquifers associated with the Colbert Landfill Site:

- a. 1,1,1-Trichloroethane (TCA)
- b. 1,1-Dichloroethylene (DCE)
- c. 1,1-Dichloroethane (DCA)
- d. Trichloroethylene (TCE)
- e. Methylene chloride (MC)

These maps are presented here in reduced form as Figures 5 and 6 in order to show the general pattern in which each contaminant has spread in the upper and lower aquifers respectively.

The maximum levels of these contaminants, plus tetrachloroethylene (PCE), which were detected in the 1985 RI groundwater sampling program are summarized in Table 3. These values are rather dynamic and suffer from two limitations for representing the maximum contamination levels in the aquifers. First, they fluctuate due to movement of the plumes, variations in sampling, laboratory inaccuracies, or some combination of these. Second, the wells may not be located at the point of highest concentration in the aquifer. Nevertheless, they indicate the relative magnitude of the problem in the two aquifers.

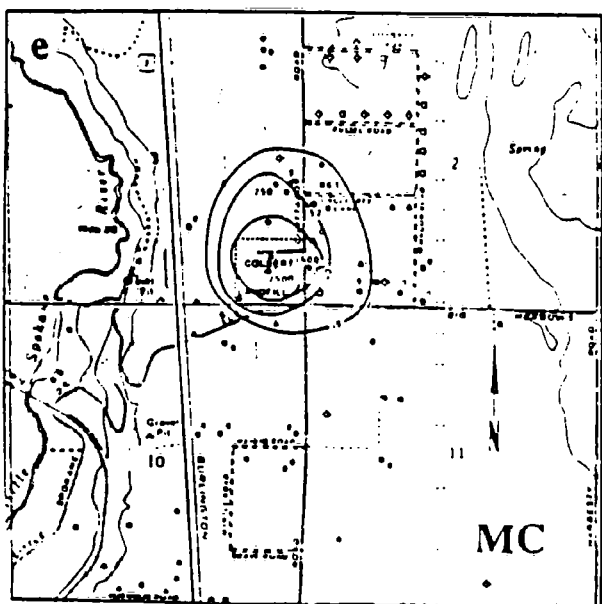
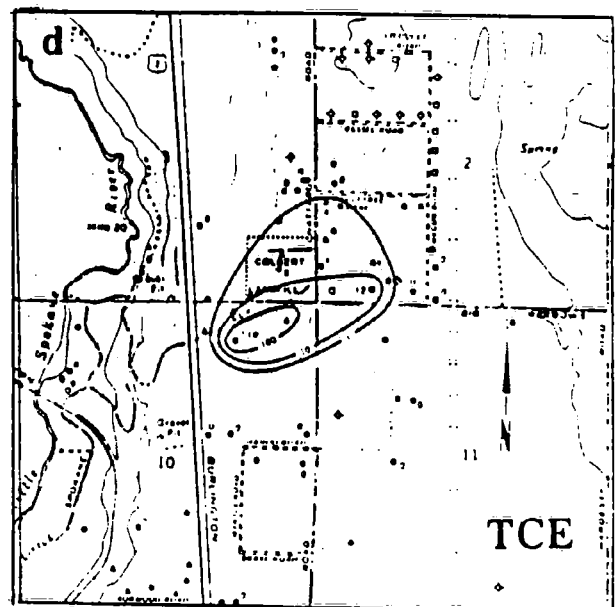
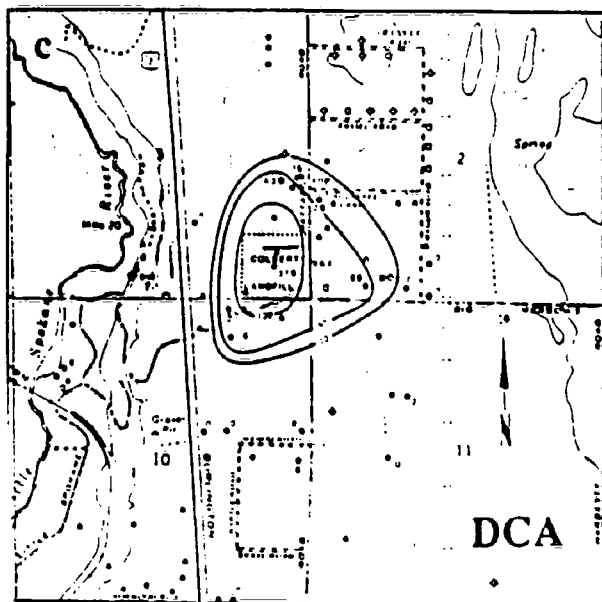
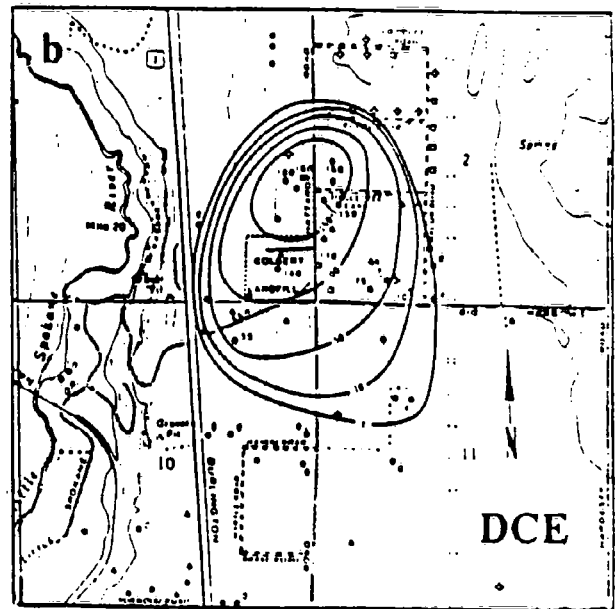
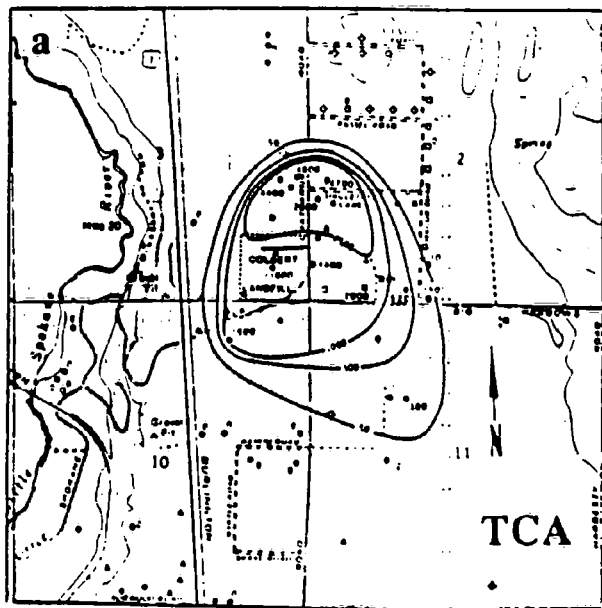


DISTRIBUTION OF CONTAMINANTS IN UPPER AQUIFER

(a) 1,1,1-Trichloroethane (TCA) (b) 1,1-Dichloroethylene (DCE)
 (c) 1,1-Dichloroethane (DCA) (d) Trichloroethylene (TCE)

SOURCE: GOLDER AND ENVIROSPHERE 1987

FIGURE 5



DISTRIBUTION OF CONTAMINANTS IN LOWER AQUIFER

- (a) 1,1,1-Trichloroethane (TCA)
- (b) 1,1-Dichloroethylene (DCE)
- (c) 1,1-Dichloroethane (DCA)
- (d) Trichloroethylene (TCE)
- (e) Methylene Chloride (MC)

SOURCE: GOLDER AND ENVIROSPHERE 1987

FIGURE 6

TABLE 3
MAXIMUM CONTAMINANT CONCENTRATIONS IN GROUNDWATER AT
COLBERT LANDFILL SITE

Contaminant	Concentration ($\mu\text{g/l}$)	
	Upper Aquifer	Lower Aquifer
1,1,1-Trichloroethane (TCA)	1,300	5,600
1,1-Dichloroethylene (DCE)	47	190
1,1-Dichloroethane (DCA)	600 ^{1/}	420
Trichloroethylene (TCE)	72 ^{1/}	230
Tetrachloroethylene (PCE)	23	1
Methylene Chloride (MC)	ND ^{2/}	2,500

^{1/} Latest concentrations recorded in 1984 by George Maddox and Associates in Well CS-13 which could not be sampled in 1985 due to low water levels.

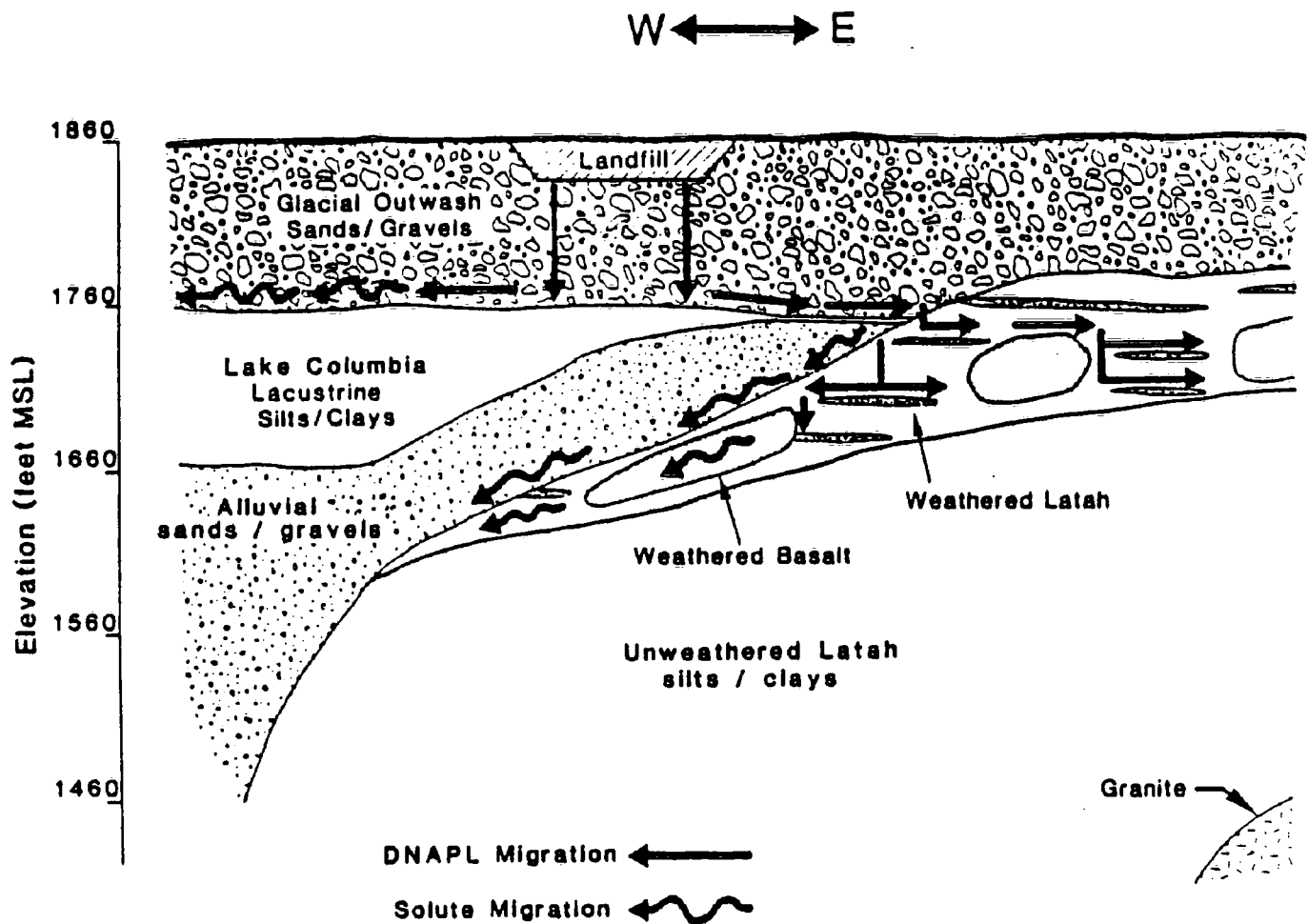
^{2/} ND = not detected to date in any well in aquifer.

Source: Golder 1987. Measurements are from the Fall/Winter 1985 RI samples, except as noted.

As can be seen in the distribution maps, the contamination has spread much further in the upper aquifer than it has in the lower, with the upper aquifer plume extending south of the landfill toward the town of Colbert. The lower aquifer plume, on the other hand, has proceeded further north and southeast. The highest levels of contamination in the groundwater are divided between the two aquifers, with TCA, DCE, TCE, and MC found at higher concentrations in the lower aquifer, with DCA and PCE more concentrated in the upper aquifer.

Section 5.4.1 of the RI Report (Golder 1987) presents an estimate that only about 10 percent of the TCA documented to have been disposed at Colbert Landfill can be accounted for in solution in the groundwater. It has been proposed that substantial quantities of the contaminants remain at the bottom of the aquifers in the form of dense, nonaqueous phase liquids (DNAPLs), i.e., relatively undiluted chemicals existing as separate liquids rather than in solution in the groundwater. While it is difficult to estimate how much was lost to volatilization at the time of disposal and subsequently during contaminant migration, it appears possible that some portion of the remaining 90 percent of this material could remain in the subsurface in DNAPL form. Since these chemicals have a density greater than water, they are likely to have flowed along the bottom of the upper aquifer under gravitational influence. Contaminant flow would then occur both to the east and to the west since, according to stratigraphic interpretation, the landfill is situated over a ridge formed by the upper surface of the lacustrine silt/clay aquitard, which slopes to both the east and the west. The DNAPL flow would continue along the bottom of the aquifer until it came to a confined low point where it could pond. There it would remain and slowly release its chemical constituents into the groundwater flowing over it. A schematic illustration of this contaminant migration is reproduced from the RI Report as Figure 7.

The quantity of these DNAPL residuals is impossible to determine with any accuracy. Their location is likely to be to the north and east of the landfill, and probably more in the lower aquifer than in the upper



**SCHEMATIC OF DENSE, NONAQUEOUS
PHASE LIQUID (DNAPL) MIGRATION
BENEATH COLBERT LANDFILL**

FIGURE 7

aquifer. The existence of these constituents is further indicated by the centers of contamination in the lower aquifer being shifted toward the northeast (see Figure 6), and by the high levels of contaminants detected in the groundwater at this depth despite the fact that the lower aquifer should be further from the original source. As such, the hypothetical pools of contaminants at the bottom of the aquifer would constitute secondary sources which could cause continuing groundwater contamination for an extended period of time.

Future Migration and Impacts of Contaminants-Upper Aquifer

In the upper aquifer, the fronts of the contamination plumes for TCA, DCE, and DCA have extended over the past 8 to 10 years as far as 9000 feet south of the landfill (see Figure 5). Golder (1987) calculated a solute plume velocity of about 2 to 3 ft/day for the TCA plume by two separate methods. The other contaminants mentioned above appear to have similar velocities. These transport rates are likely to continue for the next several years, although the stratigraphy in the area ahead of the plumes is less well understood and so cannot be used to confirm this. The plumes appear to be migrating toward the town of Colbert. A portion of the groundwater flow in the upper aquifer appears to move toward a granite bedrock outcrop just north of the town, where runoff from the eastern hills and the upper aquifer infiltrate down into the lower aquifer, in which groundwater flows westward to the Little Spokane River Valley. Therefore, contamination in the upper aquifer could also pass into the lower aquifer here and migrate westward.

An estimate was made of the future extent of the upper aquifer contaminant plume if remediation is not undertaken (Figure 8). This was based on an interpretation of the topography of the site and general vicinity as shown on the USGS Mead and Dartford 7.5-Minute Quadrangles, the regional geology as derived by Griggs (1973) and shown in Figure 2-1 of the RI Report, and the stratigraphy and hydrogeology of the site delineated in the course of the Remedial Investigation. The upper aquifer plume seems to be advancing toward the south along a

trough in the Lake Columbia lacustrine silt/clay aquitard. This is most likely a channel incised in the lake bottom from recessional glacial outwash flows and flooding events following the draining of the ice age lake. The channel follows a paleo-valley bounded by the granitic hills and older glacial outwash materials to the east, and the bluffs down to the Little Spokane River to the west. There are no obvious discharge areas although portions of the flow may discharge as small springs on the western bluff, feed Little Deep Creek where it is perennial south of Green Bluff Road, or drain down through a connection into the lower aquifer. The bulk of the flow, and thus ultimately the plume, however, probably continues south and discharges in the valley sides of Peone (or Deadman) Creek. The overall course of the groundwater flow is interpreted to be approximately parallel to Highway 2. Approaching Peone Creek the flow will probably be diverted slightly by the granitic bedrock high to the south beyond and align with the westerly course of the Little Spokane Valley. Groundwater flows from other areas, such as Peone Prairie to the east, would also tend to divert the plume to the west.

Based on available stratigraphic and hydrogeologic information, this interpretation represents a best estimate rather than worst case. Using the 2- to 3-feet-per-day advance of contaminants calculated to date, it is estimated that the plume will migrate the remaining four miles to Peone Creek in about 20 to 30 years. Actual migration time may be shorter or longer than this due to the width, depth, and hydraulic properties of the aquifer. Clearly, however, it is possible that any wells in the upper aquifer in the area delineated in Figure 8 could become contaminated during the 30-year planning period of the FS.

Various processes could occur that may cause the quantity of contaminants in the plume to be reduced and thereby diminish in concentration during the period of transport. These include:

- o Volatilization into vadose soil gas, and then into the atmosphere;

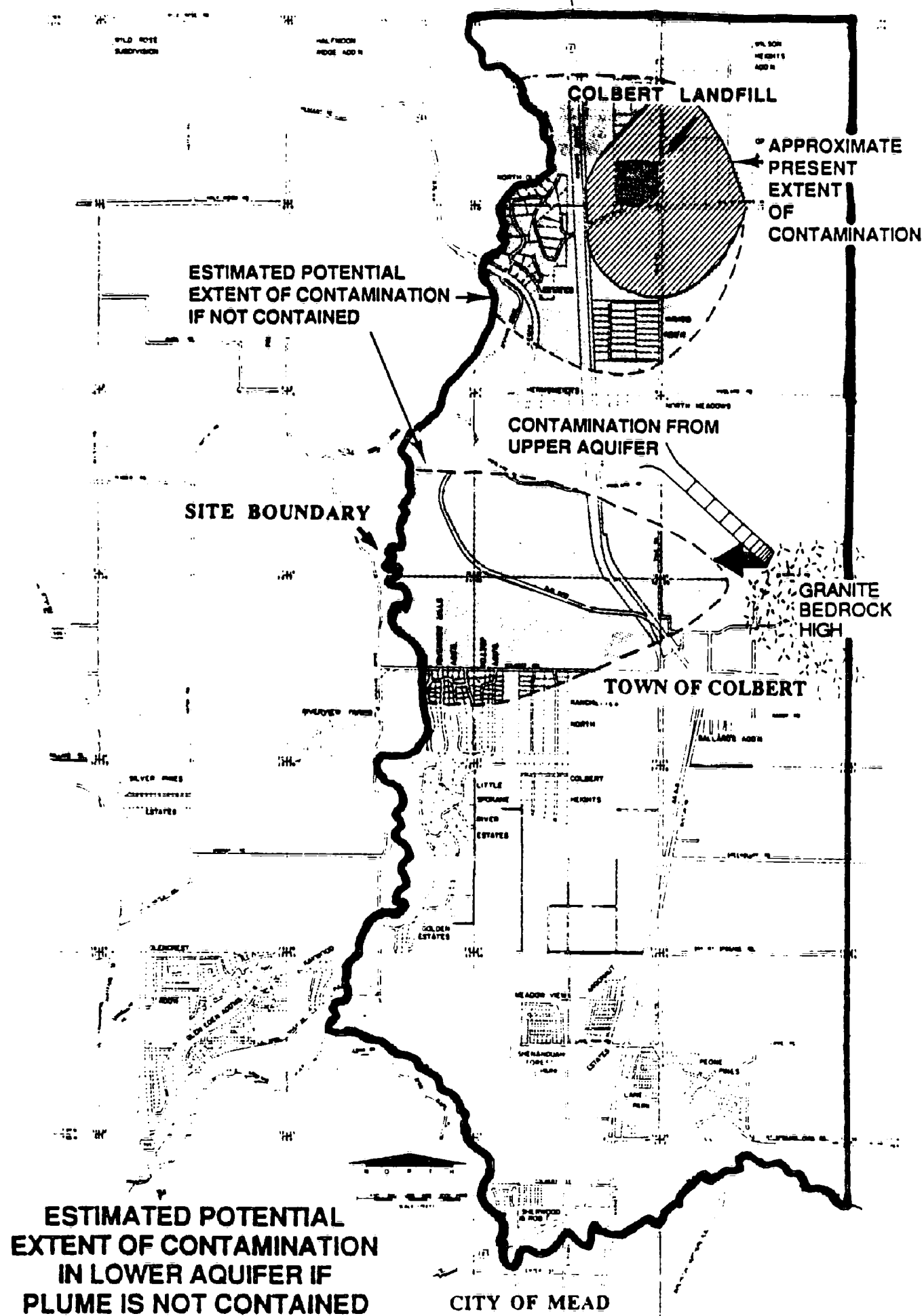
- o Adsorption onto soil particles, particularly organic matter;
- o Microbial degradation; and
- o Hydrolysis, the decomposition of a chemical compound by reaction with water.

Based upon the observation that the concentration levels, at least for the contaminants TCA and DCE, are fairly constant over most of the plume, it appears that the natural degradation is slow. If degradation were occurring, the concentration of contaminants at the front of the plume would have diminished. There has been a trend in the upper aquifer for contamination levels near the source areas to diminish over the time they have been monitored. Chemical concentrations for the upper aquifer will remain elevated for a significant time, certainly longer than the estimated time for migration to Peone Creek.

Future Migration and Impact of Contaminants - Lower Aquifer

The RI Report did not develop a plume velocity for the contaminants in the lower aquifer partially because the plume has not advanced far enough to provide the data required to make any accurate estimates based upon historical data, and also because the hydrogeology of this aquifer is complicated. Migration of the contamination to the west, for example, is expected to slow down considerably over the next several years as the plume moves into thicker saturated zones adjacent to the river (see Figure 3).

Following a similar procedure to that described in the previous section for the upper aquifer, the future extent of the lower aquifer plume is predicted to impact a much smaller area (see Figure 9). It is also suggested that the upper aquifer may be connected with the lower aquifer in areas other than those identified east of the landfill. For example, in the area of the granite bedrock high north of the town of Colbert, groundwater elevations from wells indicate that flow in the upper aquifer is diverted southeasterly (i.e., toward the bedrock high). This appears indicative of a partial sink in the upper aquifer due to connection to the lower aquifer in this area. If this



SOURCE: GOLDBER AND ENVIROSPHERE 1987

FIGURE 9

connection does exist and contamination from the upper aquifer plume enters the lower aquifer, it may affect residents who obtain water from the lower aquifer in the area between the town of Colbert and the Little Spokane River.

The same natural reduction processes mentioned in the previous section may also occur in the lower aquifer and reduce contamination levels, albeit very slowly. The volatilization pathway through the vadose zone soils is active in areas where the aquifer is unconfined despite its depth, as can be seen in the results of the Tracer Research soil atmosphere survey. In the areas where the aquifer dips below an aquitard and becomes confined, there is no air interface in which interchange can occur, so volatilization is much slower. Thus, natural restoration of the lower aquifer will require more time than for the upper aquifer. For the most part the contamination will decrease only as the secondary sources, apparently mainly in the lower aquifer, are solubilized and depleted. Estimation of the mass of chemicals solubilized in the groundwater indicate that only about 10 percent of the chemicals have gone into solution in the past 8 to 10 years since disposal occurred. At the same rate, dissolution of the entire volume of contaminants could thus require decades. However, it is very possible that the emission rate from the secondary sources could diminish over the years as the more soluble contaminants are exhausted. As a result, the plume could continue to exist for a longer period of time at a lower, but still significant, concentration level.

Future Migration and Impacts of Contaminants - Surface Water

There is a small amount of seepage emerging from the upper aquifer at a few locations along the valley walls in areas where that aquifer is known to be contaminated. One of the discharge points, the King Springs, was sampled by Ecology personnel and found to have an initial TCA contamination level of 111 $\mu\text{g/l}$ as it emerges from the aquifer. This level of contamination is consistent with concentrations recorded in the groundwater in the vicinity. The contamination in the spring water diminished rapidly as the water trickled as little as 10 feet

away, apparently due to the contaminants volatilizing into the air. Contamination reaching the Little Spokane River from these springs which are located several hundred feet away from the river will be dissipated to undetectable levels.

The contamination in the lower aquifer has not reached the vicinity of the river. If it does, it will flow into the river below the water surface and not be subjected to the same immediate aeration processes. Future contaminant concentrations in the river were predicted (see Table 4) based on four assumed conditions: the present-day flux of the chemicals in solution in the lower aquifer beneath the landfill; unimpeded transfer from the aquifer to the river; full mixing in the river; and no volatilization from the river surface.

It is expected that the levels attained immediately upon mixing will be diminished through in-stream processes, predominantly aeration, before the Little Spokane reaches the Spokane River some 20 miles downstream, at which point the flow in the larger river will further reduce any remaining contaminant levels.

RISK ASSESSMENT

A Risk Assessment (RA) of the Colbert Landfill Site was conducted to provide a quantitative determination of the potential for harm to the general public as a result of exposure to site contaminants (Appendix A - Golder and EnviroSphere 1987). Three primary pathways potentially expose humans to the contaminants, which include both carcinogenic and noncarcinogenic compounds. The pathway of most concern is ingestion, as site groundwaters are presently used as a potable water supply by many residents in the Colbert area. In addition, many residents of the community use their properties for crop production and livestock grazing. Therefore, a potential risk to human health also occurs from the ingestion of crops irrigated by or grown in contaminated water and ingestion of beef or dairy products from livestock grazing in the area. Pathways of less concern, but still evaluated in the RA, are dermal contact from bathing and inhalation of volatile contaminants, and health impacts for livestock drinking contaminated water.

TABLE 4
ESTIMATED CONTAMINANT FLUXES IN LOWER AQUIFER
AND RESULTANT FUTURE CONCENTRATIONS IN LITTLE SPOKANE RIVER

Colbert Landfill

Contaminant	Present-day flux (g/day)	Maximum Future River Concentration (ug/l)	
		Mean river flow conditions $q_{avg} = 236 \text{ cfs}^{1/}$	Drought flow conditions $q_{7,10} = 75 \text{ cfs}^{2/}$
1,1,1-Trichloroethane (TCA)	9700	17	53
1,1-Dichloroethylene (DCE)	680	1.2	3.7
1,1-Dichloroethane (DCA)	730	1.3	4.0
Trichloroethylene (TCE)	95	0.2	0.6
Methylene Chloride (MC)	4400	7.6	24

Source: Golder and Envirosphere 1987.

1/ q_{avg} is long-term average flow in the Little Spokane River, calculated for the reach adjacent to the site.

2/ $q_{7,10}$ is the seven-day average flow which is exceeded (on the low side) only once every ten years (on average).

Risk Assessment of Contaminants

For each of the indicator contaminants identified above, Acceptable Doses (AD) were derived. Noncarcinogen ADs were based on available toxicity data that indicate a no adverse effect level. For carcinogens the ADs were based on a one-in-a-million (10^{-6}) or one-in-a-hundred-thousand (10^{-5}) chance of developing cancer from a lifetime exposure, using the EPA Cancer Assessment Group (CAG) evaluation of the cancer potency. The different pathways were analyzed as sequences of steps, with partitioning of contaminants occurring at each specific step. The results of these calculations are presented in Table 5 as Maximum Acceptable Concentrations (MAC) values which should not be exceeded in water used for drinking (ingestion) or bathing (dermal). The Federal Drinking Water Maximum Concentration Levels (MCLs) and the maximum concentration detected in the upper and lower aquifers are also presented for comparison.

Risks to Human Health and the Environment

Based upon the Risk Assessment, the following conclusions were made concerning risks to human health and the environment from contaminants associated with the Colbert Landfill Site.

- o Concentrations for the contaminants TCA, DCE, TCE, and MC frequently exceed their human ingestion MAC values for both of the aquifers. Therefore, drinking the water from contaminated wells poses the most significant risk to human health. The subdivisions that are already within the areas of aquifer contamination above the MAC values are: Wilson Heights, Open Air, Wahoo, North Meadows, and Hermsmeier Additions. Other subdivisions which are in the total potential area of impact include: North Glen Estates, Ranchettes North, Hilltop Addition, Riverview Hills Addition, Little Spokane River Estates, Colbert Heights, Golden Estates, Ballards Addition, Meadow View, Argonaut Estates, Lane Park, Peone Pines, and

TABLE 5
RESULTS OF RISK ASSESSMENT FOR INGESTION AND DERMAL EXPOSURE ^{1/}

Detected Contaminant	Indicator Parameter	Carcinogens ^{2/}	Acceptable Dose (µg/day)	Maximum Acceptable Concentration (MAC) Values (µg/l)		EPA Maximum Contaminant Levels (MCLs) (µg/l)	Maximum Concentrations (µg/l) ^{4/}	
				Ingestion Pathway	Dermal Exposure		Upper Aquifer	Lower Aquifer
1,1,1-Trichloro-ethane (TCA)	Yes	No	400	200	97,000	200	1,300	5,600
1,1-Dichloro-ethylene (DCE)	Yes	Possible	14	7	3,050	7	47	190
1,1-Dichloro-ethane (DCA)	No	No	8,100	4,050	NA ^{3/}	None	600	420
Trichloroethylene (TCE)	No	Yes	6.4	3.2	NA	5	72	230
Tetrachloro-ethylene (PCE)	No	Yes	1.4	0.7	NA	None	23	1
Methylene Chloride (MC)	Yes	Yes	5	2.5	1,200	None	ND ^{5/}	2,500

^{1/} See Risk Assessment document (Appendix A of Feasibility Study Report, Golder and EnviroSphere 1987).

^{2/} Data for carcinogens is given for the 10⁻⁶ (one-in-a-million) risk level only. MAC values for a 10⁻⁵ (one-in-a-hundred thousand) risk levels can be computed by multiplying the MAC by 10.

^{3/} NA = not analyzed as part of Risk Assessment.

^{4/} From Table 3.

^{5/} ND = not detected to date in any well.

Sherwood and Robert. Some of these subdivisions or portions of them are already serviced by Whitworth Water District No. 2. However, the Meadow View and Kellogg Wells, which presently serve System 9, could become contaminated by the advancing plume.

- o Exposure from ingestion of crops grown in contaminated waters does not pose a significant health risk due to the volatile nature of the contaminants and the location of the contaminated aquifers below the root zone of local vegetation. Similarly, a human health risk is not expected from the ingestion of beef or dairy products.
- o Some contaminant concentrations exceed the dermal MAC values for MC and DCE both as a carcinogen and noncarcinogen; therefore, bathing in contaminated water could pose a risk to human health.
- o Although exceedances of the MAC values for MC could occur in the Little Spokane River, the river is not used as a potable supply. Therefore, human health risks are negligible, as only incidental ingestion is expected. Since no exceedances of the dermal MAC values occur for any of the indicators, swimming in the Little Spokane River does not appear to pose a risk to human health.
- o The inhalation exposure to volatile organics was calculated using two different models for showering and normal domestic water use, both of which indicated that volatilization of organics does not present a public health risk.

III. ENFORCEMENT

The remedial action is anticipated to be accomplished voluntarily by the Responsible Parties who have been identified to date. These include Spokane County, Key Tronic Corporation, and Fairchild Air Force Base. Other responsible parties may be identified in the future. There have never been any enforcement actions taken by the regulatory agencies (EPA or the Washington Department of Ecology) regarding the Colbert Landfill Site. If the Responsible Parties decline to implement the selected remedy as described in this Record of Decision, however, EPA will seek appropriate enforcement action.

IV. COMMUNITY RELATIONS HISTORY

Community interest in groundwater contamination at Colbert Landfill has been high since 1980, when local residents complained to Ecology and the Spokane County Utilities Department that hazardous materials were being disposed of at the landfill. At that time, Spokane County hired a consultant to study the extent of the contamination. The County also developed a community relations plan and began a public information program to explain the study to local residents. The County distributed fact sheets and press releases about the situation, notified well owners of their test results, and established an information repository at the Colbert Water District building.

The Utilities Department also held seven public meetings between May 1981 and November 1983, explaining each phase of the study and the test results. Representatives of several agencies, including the Spokane County Health Department and the Tax Assessor's Office, were available to respond to questions. Citizens expressed numerous significant concerns at these meetings. The primary concern was whether or not the well water was safe to use for drinking or for other purposes, and what the potential health impacts could be from drinking the water. Residents were also concerned about how the contamination would affect their property values.

There were three official actions in response to these concerns. In March 1983, Spokane County and Key Tronic Corporation began supplying bottled water to homes whose wells had over 1,000 $\mu\text{g/l}$ of 1,1,1-trichloroethane (TCA). Shortly afterward, the Spokane County Tax Assessor reduced the assessed valuation of homes with wells at this contamination level and of the other homes within 3/4 mile of the landfill.

In response to continued public requests for safe drinking water supplies, the County and Key Tronic constructed an extension to the Whitworth Water District to serve the contaminated area. This Initial Remedial Measure was completed in early 1985. Homes having wells with contamination levels over 200 ug/l TCA were connected to the system.

In the fall of 1985, local residents, not satisfied with County responses to their requests, formed the Colbert Landfill Contaminate Area Committee. The group's purpose was to collect information and make it available to interested people. In December 1985 this group presented seven recommendations to the Spokane County Commissioners. The major requests were: free water hookup for all homes in the contaminated area, with no water payments for twenty years; revaluation of property in the area; and continued well monitoring for twenty years. The County's response continued the policy of hooking up only those homes with specified contamination levels. The citizens saw this as too restrictive, which increased their frustration.

Ecology met frequently with concerned citizens and County and Key Tronic representatives between 1985 and 1987. Ecology held a public meeting in 1986 to explain the Remedial Investigation/Feasibility Study process and the results of the RI and held another meeting in May 1987 when the FS report was released for public comment. The main purpose of this meeting was to explain the cleanup alternatives and the options for treating the contaminated water. Over 200 people, primarily local residents, attended. Twenty-nine people returned the detailed comment forms and six sent letters commenting on the alternatives. Response strongly favored the recommended extraction-treatment-surface water discharge alternative and the air stripping treatment option.

The major citizen concerns regarding the FS recommendations were the shortness of the comment period (which was then extended), the concentration on the County and Key Tronic without searching for other responsible parties, potential air pollution from air stripping, and reduced ground water levels caused by the extraction system. These comments are discussed in detail in the Responsiveness Summary.

V. ALTERNATIVES EVALUATION

ALTERNATIVES

The remedial alternatives which were developed and evaluated in the Feasibility Study included:

- 1) No action;
- 2) Alternate water supply;
- 3) Point of entry treatment;
- 4 - 12) Groundwater extraction, treatment, and discharge (using various technologies for each) plus an expanded water system.

Each of these alternatives was considered separately in three geographic portions of the site:

- o The Southern area, where the plume in the upper aquifer is advancing;
- o The Western area, where the plume in the lower aquifer is the major concern;
- o The Eastern area, where the plumes appear to originate, probably from accumulations of concentrated solvent fluids.

Each of the alternatives is designated by a letter indicating its area (S-, W-, or E-) followed by a number, denoting the technology.

About 90 different technologies were screened and evaluated during the feasibility study. As the result of this detailed analysis, 12 remedial alternatives in the southern area, 7 in the western area and 7 in the eastern area were carried through for detailed evaluation using EPA's 1985 RI/FS guidance factors (EPA 1985).

PERFORMANCE CRITERIA

One remedial alternative will be selected for each of the areas of concern. This Record will not, however, specify a particular technology in order to allow the responsible parties a sufficient degree of latitude in selecting the technology required to achieve the desired performance. This performance is defined as treating the wastewater effluent to or below the Maximum Contaminant Levels (MCLs, 40 CFR 141.61) or a similar health-based level (the 10^{-6} risk level for carcinogens) for contaminants for which MCLs have not been determined. Numeric standards are presented in Table 6 for discharge levels and for termination of the remedial action. Treated water effluents also will be monitored to assure that they meet the appropriate performance standards. Treated water discharge shall at all times be consistent with U.S. and Washington State laws including but not limited to RCW 90.48 (Water Pollution Control) and WAC 173-218 (Underground Injection Control Program). WAC 173-218 states in part that any permit issued in accordance with the provisions of the chapter are designed: "(a) to satisfy the intent and requirements of Part C of the Federal Safe Drinking Water Act (SDWA) 42 U.S.C. Section 300k et seq. as authorized by RCW 43.21A.445 and of the Water Pollution Control Act, chapter 90.48 RCW; and (b) to preserve and protect groundwaters, including underground sources for drinking water, for existing and future beneficial uses (173-218-010 (a)(b))."

WAC 173-218-020 enunciates Washington State policy regarding the carrying out of chapter purposes. Further, WAC 173-218 prohibits certain classes of new wells.

Treatment systems which may result in air emissions will be designed and monitored to meet appropriate state Air Toxics Guidelines and to use Best Available Control Technology (BACT).

TABLE 6
PERFORMANCE STANDARDS
MAXIMUM ALLOWABLE CONTAMINANT CONCENTRATIONS
(HEALTH PROTECTION LEVELS)^{1/}

Contaminant	Maximum Concentration (ug/l)
1,1,1-Trichloroethane (TCA)	200
1,1-Dichloroethylene (DCE)	7
1,1-Dichloroethane (DCA)	4,050
Trichloroethylene (TCE)	5
Tetrachloroethylene (PCE)	0.7
Methylene Chloride (MC)	2.5

^{1/} Health protection levels are not to be exceeded, during operational life of remedial action, in effluents from groundwater treatment systems. In addition, permanent attainment of these levels in the groundwater throughout the site will indicate completion of the remedial action.

EVALUATION METHODOLOGY

The detailed evaluation in the Feasibility Study discusses the cost-effectiveness of an alternative in terms of technical, environmental and public health, and institutional concerns. According to NCP Section 300.68(h), the detailed analysis of each alternative should include:

- o Refinement and specification of alternatives in detail, with emphasis on use of established technology;
- o Evaluation in terms of engineering implementation, reliability, and constructibility;
- o An assessment of the extent to which the alternative is expected to effectively prevent, mitigate, or minimize threats to, and provide adequate protection of public health and welfare and the environment;
- o An analysis of adverse environmental impacts, methods for mitigating these impacts, and costs of mitigation; and
- o Detailed cost estimation, including operation and maintenance costs, and distribution of costs over time.

The detailed aspects of evaluating these alternatives are presented by five major criteria:

- o Technical Feasibility,
- o Institutional Requirements,
- o Public Health Impacts,
- o Environmental Impacts, and
- o Cost Analysis.

This presentation facilitates the comparison of similar components among the alternatives for the same criteria.

The technical evaluation addresses the feasibility of the technologies and associated components which make up each alternative. The evaluation of institutional requirements analyzes compliance with current EPA policy on the use of applicable and relevant standards and other criteria, guidance, and advisories at Superfund remedial sites, as well as coordination with other agencies and community concerns. Each alternative is evaluated as to how well it can limit the concentrations of hazardous substances in the environment to avoid unacceptable threats to public health as established by the Risk Assessment. The environmental impacts of each alternative are evaluated by comparing beneficial and adverse effects. The cost for each alternative includes the capital costs for implementation and the operation and maintenance costs spanning the thirty year study period.

The results of the detailed evaluation for each alternative are expressed in a rating system utilizing the terms high, moderate, and low.

A high rating indicates that the alternative promotes the intent of the criteria and/or meets or exceeds the remedial objectives. A moderate rating indicates that the alternative only partially promotes the intent of the criteria, however, the alternative does remediate the problem to an acceptable extent even though it does not meet all the remedial objectives. A low rating indicates that the alternative does not promote the criterion and/or does not meet the remedial objectives.

RESULTS

The detailed evaluation according to 1985 RI/FS Guidance Factors (EPA 1985) is presented on Table 7, and an evaluation of these remedial alternatives according to the Section 121(b)(1)(A-G) factors is shown on Table 8. The rating system for Table 8 is similar to that for Table 7, using ratings of high, moderate, and low to indicate a degree of compliance with each factor.

TABLE 7
SUMMARY OF DETAILED EVALUATION
1985 RI/FS GUIDANCE FACTORS

Remedial Alternatives		Technical Feasibility Rating	Institutional Requirements Rating	Public Health Requirements Rating	Environmental Impacts Rating	Cost Analysis (\$ Million)	
						Capital Cost	Present Worth
<u>SOUTHERN AREA 1/</u>							
S-1:	No action	High	Low	Low	Moderate	.330	0.592
S-2:	Alternate Water Supply/Water Use Restrictions	High	Moderate	Moderate	Moderate	17.09	18.08
S-3:	Point of Entry Treatment	High	Low	Low	Low	2.77	17.90
S-4:	Deep Well Extraction/Carbon Adsorption/Creek Outfall	High	High	Moderate	High	2.4	4.10
S-5:	Deep Well Extraction/Air Stripping/Creek Outfall	Moderate	High	Moderate	High	2.23	2.88
S-6:	Deep Well Extraction/Ozone/UV/Creek Outfall	High	High	Moderate	High	2.66	3.69
	Deep Well Extraction/Hydrogen Peroxide/UV/Creek Outfall	High	High	Moderate	High	2.92	7.02
S-7:	Deep Well Extraction/Carbon Adsorption/Drainfield	High	High	Moderate	High	2.43	4.42
S-8:	Deep Well Extraction/Air Stripping/Drainfield	Moderate	High	Moderate	High	2.28	3.00
S-9:	Deep Well Extraction/Ozone/UV/Drainfield	High	High	Moderate	High	2.86	4.23
	Deep Well Extraction/Hydrogen Peroxide/UV/Drainfield	High	High	Moderate	High	3.15	9.31
S-10:	Deep Well Extraction/Carbon Adsorption/Recharge Wells	High	Moderate	Moderate	High	2.62	4.68
S-11:	Deep Well Extraction/Air Stripping/Recharge Wells	Moderate	Moderate	Moderate	High	2.47	3.26
S-12:	Deep Well Extraction/Ozone/UV/Recharge Wells	High	Moderate	Moderate	High	3.05	4.49
	Deep Well Extraction/Hydrogen Peroxide/UV/Recharge Wells	High	Moderate	Moderate	High	3.34	9.57
<u>WESTERN AREA:</u>							
W-1:	No Action	High	Low	Low	Moderate	0	0.124
W-2:	Alternate Water Supply/Water Use Restrictions	High	Moderate	Moderate	Moderate	2.81	2.99
W-3:	Point of Entry Treatment	High	Low	Low	Low	52.70	571.0
W-4:	Deep Well Extraction/Carbon Adsorption/River Outfall	High	High	Moderate	High	1.53	41.58

TABLE 7 (Continued)
SUMMARY OF DETAILED EVALUATION
1985 RI/FS GUIDANCE FACTORS

Remedial Alternatives		Technical Feasibility Rating	Institutional Requirements Rating	Public Health Requirements Rating	Environmental Impacts Rating	Cost Analysis (\$ Million)	
						Capital Cost	Present Worth
WESTERN AREA (Continued):							
W-5:	Deep Well Extraction/Air Stripping/River Outfall	Moderate	High	Moderate	High	1.02	2.15
W-6:	Deep Well Extraction/Air Stripping & Carbon Adsorption/ River Outfall	Moderate	High	Moderate	High	1.81	22.84
W-7:	Deep Well Extraction/Ozone/UV/River Outfall	Moderate	High	Moderate	High	2.34	6.26
	Deep Well Extraction/Hydrogen Peroxide/UV/River Outfall	Moderate	High	Moderate	High	2.26	15.37
EASTERN AREA							
E-1:	No Action	High	Low	Moderate	Moderate	1.32	1.50
E-2:	Alternate Water Supply/Water Use Restrictions	High	Moderate	High	High	2.54	2.89
E-3:	Point of Entry Treatment	High	Low	Low	Low	2.32	3.06
E-4:	Deep Well Extraction/Carbon Adsorption/River Outfall	High	High	High	High	3.73	22.7
E-5:	Deep Well Extraction/Air Stripping/River Outfall	Moderate	High	High	Moderate	3.39	4.34
E-6:	Deep Well Extraction/Air Stripping & Carbon Adsorption/ River Outfall	Moderate	High	High	Moderate	3.92	14.13
E-7:	Deep Well Extraction/Ozone/UV/River Outfall	Moderate	High	High	High	4.20	6.52
	Deep Well Extraction/Hydrogen Peroxide/UV/River Outfall	Moderate	High	High	High	4.33	13.58

1/ Costs for Southern Area Extraction/Treatment/Discharge Alternatives (S-4 through S-12) include improvements to Whitworth Water District No. 2 water supply system.

TABLE 8
EVALUATION OF CERCLA SECTION 121(b)(1)(A-G) FACTORS ^{1/}

	A	B	C	D	F ^{2/}	G
Remedial Alternatives	Land Disposal Uncertainties	Solid Waste Disposal Act Objectives	Persistence, Toxicity, Mobility of Hazardous Substances	Adverse Health Effects	Future Costs if Failure	Threats due to Excava- tion, Trans- portation, Containment
SOUTHERN AREA						
S-1: No action	N/A	Low	Low	Low	N/A	Low
S-2: Alternate Water Supply/Water Use Restrictions	N/A	Low	Low	Moderate	Low	Low
S-3: Point of Entry Treatment	N/A	Low	Low	Moderate	Low	Low
S-4: Deep Well Extraction/Carbon Adsorption/Creek Outfall	N/A	High	High	High	High	High
S-5: Deep Well Extraction/Air Stripping/Creek Outfall	N/A	Moderate	Moderate	Moderate	High	High
S-6: Deep Well Extraction/Ozone/UV/Creek Outfall Deep Well Extraction/Hydrogen Peroxide/UV/Creek Outfall	N/A	High High	High High	High High	High High	High High
S-7: Deep Well Extraction/Carbon Adsorption/Drainfield	N/A	High	High	High	Moderate	High
S-8: Deep Well Extraction/Air Stripping/Drainfield	N/A	Moderate	Moderate	Moderate	Moderate	High
S-9: Deep Well Extraction/Ozone/UV/Drainfield Deep Well Extraction/Hydrogen Peroxide/UV/Drainfield	N/A	High High	High High	High High	Moderate Moderate	High High
S-10: Deep Well Extraction/Carbon Adsorption/Recharge Wells	N/A	High	High	High	Moderate	High
S-11: Deep Well Extraction/Air Stripping/Recharge Wells	N/A	Moderate	Moderate	Moderate	Moderate	High
S-12: Deep Well Extraction/Ozone/UV/Recharge Wells Deep Well Extraction/Hydrogen Peroxide/UV/Recharge Wells	N/A	High High	High High	High High	Moderate Moderate	High High
WESTERN AREA:						
W-1: No Action	N/A	Low	Low	Low	N/A	Low
W-2: Alternate Water Supply/Water Use Restrictions	N/A	Low	Low	Moderate	Low	Low

TABLE 8 (Continued)
EVALUATION OF CERCLA SECTION 121(b)(1)(A-G) FACTORS

Remedial Alternatives	A	B	C	D	F ^{2/}	G
<u>WESTERN AREA (Cont.)</u>						
W-3: Point of Entry Treatment	N/A	Low	Low	Moderate	Low	Low
W-4: Deep Well Extraction/Carbon Adsorption/River Outfall	N/A	High	High	High	High	High
W-5: Deep Well Extraction/Air Stripping/River Outfall	N/A	Moderate	Moderate	Moderate	High	High
W-6: Deep Well Extraction/Air Stripping & Carbon Adsorption/ River Outfall	N/A	High	High	High	High	High
W-7: Deep Well Extraction/Ozone/UV/River Outfall Deep Well Extraction/Hydrogen Peroxide/UV/River Outfall	N/A	High High	High High	High High	High High	High High
<u>EASTERN AREA</u>						
E-1: No Action	N/A	Low	Low	Low	N/A	Low
E-2: Alternate Water Supply/Water Use Restrictions	N/A	Low	Low	Moderate	Low	Low
E-3: Point of Entry Treatment	N/A	Low	Low	Moderate	Low	Low
E-4: Deep Well Extraction/Carbon Adsorption/River Outfall	N/A	High	High	High	High	High
E-5: Deep Well Extraction/Air Stripping/River Outfall	N/A	Moderate	Moderate	Moderate	High	High
E-6: Deep Well Extraction/Air Stripping & Carbon Adsorption/ River Outfall	N/A	High	High	High	High	High
E-7: Deep Well Extraction/Ozone/UV/River Outfall Deep Well Extraction/Hydrogen Peroxide/UV/River Outfall	N/A	High High	High High	High High	High High	High High

- ^{1/}NOTES: A = The long-term uncertainties associated with land disposal
B = the goals, objectives, and requirements of the Solid Waste Disposal Act
C = the persistence, toxicity, mobility, and propensity to bioaccumulate of such hazardous substances and their constituents
D = short- and long-term potential for adverse health effects from human exposure
E = cost of remediation (see Table 7)
F = the potential for future remedial action costs if the alternative remedial action in question were to fail
G = the potential threat to human health and the environment associated with excavation, transportation, and redisposal, or containment

^{2/} For factor E (cost of remediation) see Table 7

As shown on these tables, all of the deep well extraction, treatment, and disposal alternatives were evaluated either moderate or high with respect to all of the 1985 RI/FS Guidance Factors and the A-G Factors. Any of these technologies is acceptable, as long as the performance standards in Table 6 are met.

Alternatives that did not employ deep well extraction were rated low with respect to one or more evaluation criteria. As a result, none of these is considered acceptable.

VI. SELECTED REMEDY

DESCRIPTION

There are contamination problems in the southern, western, and eastern areas of the site. This interim final remedial action addresses management of the migration of contaminants using a groundwater interception system in the south and west areas, and attempts source control in the east area through extraction of groundwater with the highest contaminant concentrations. All extracted water will be treated to specified Performance Standards, monitored to assure compliance, and will be properly discharged. The water supply system in the area will be improved to assure sufficient supplies for all residents who require it.

The remedy is designed to:

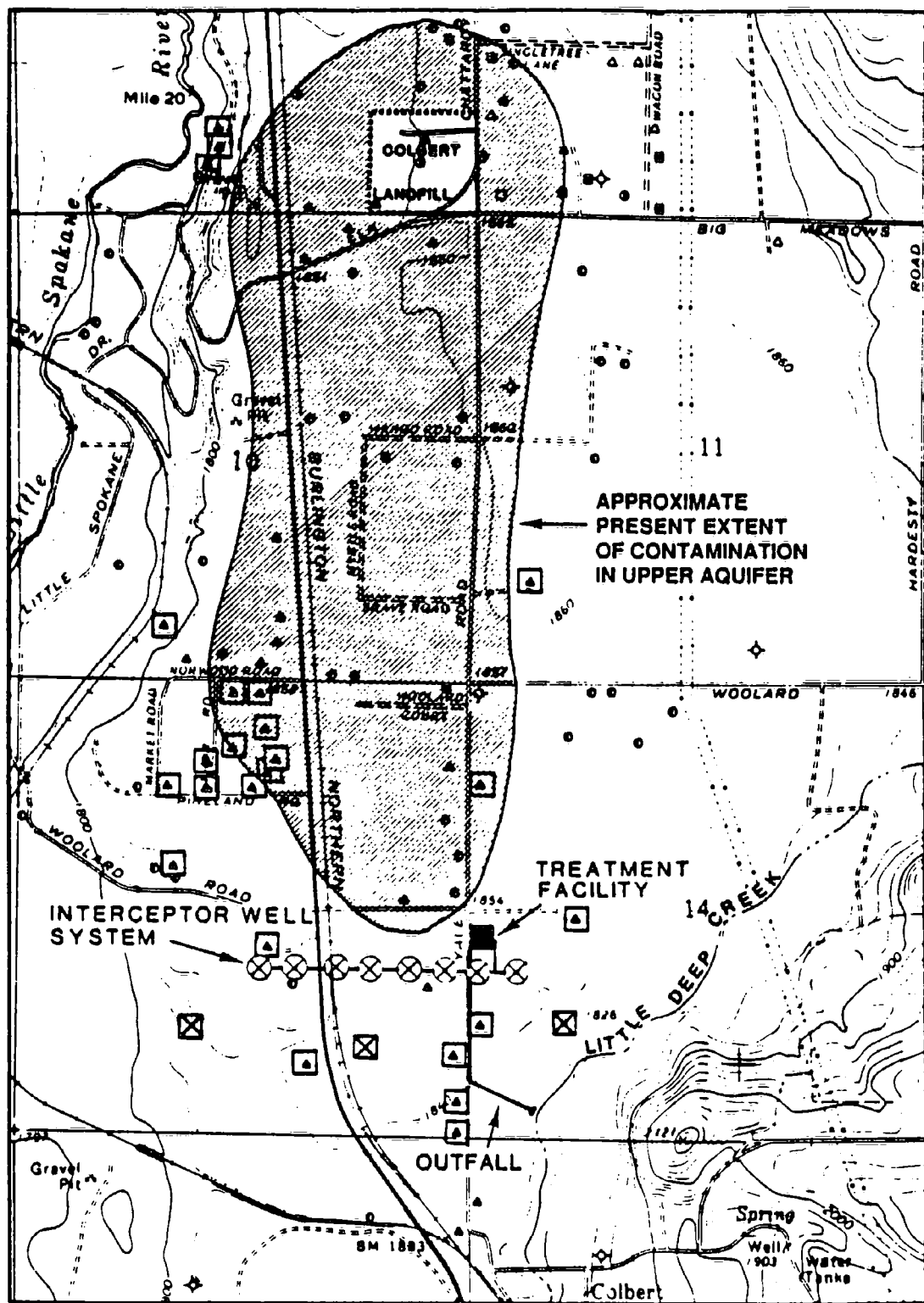
- o prevent further spread of contaminated groundwater (in the south and west) in two aquifers by installing and operating interception wells and treating the extracted groundwater,
- o remove contaminated materials (in the east) which have entered the aquifers and are contributing to the contaminant plume, by installing and operating extraction wells in the area where the plumes originate and treating the effluent, and
- o provide an alternate water supply system to any residents who are deprived of their domestic supply by demonstrated contamination from the landfill or due to the action of the extraction systems.

For interception of the contaminant plume in the upper aquifer (southern area), a line of wells will be required downgradient of the plume at the time of implementation. Placement of the wells and extraction rates will be sufficient to prevent any significant amount

of the contamination from proceeding beyond this line of wells. One possible configuration, based on the location of the plume as determined at the time of the Remedial Investigation (December 1985) and developed for the evaluated alternatives S-4, S-5, and S-6 of the Feasibility Study, is shown in Figure 10. In this arrangement, about eight wells, each approximately 100 feet deep, would be used, with each pumping 20 to 30 gallons per minute (gpm). To confirm successful interception as well as limiting spreading of the plume, several other wells will be sampled and analyzed, including in this scenario 24 private wells and three new monitoring wells.

In the western area, a configuration similar to that analyzed in the Feasibility Study for alternatives W-4, W-5, W-6, and W-7 will be necessary to prevent future westward migration of this contamination as shown in Figure 11. In this suggested arrangement ten extraction wells may be necessary, each pumping approximately 130 gpm. Monitoring would involve 33 private wells and four new monitoring wells. Note that these extraction/monitoring well field concepts are not required for the selected alternative but are rather merely illustrative suggestions; such details will instead be chosen in the design phase of the remedial action, with EPA and state review to assure conformance with the objectives of the selected remedial alternative.

Treatment for both areas will be sufficient to reduce contaminant levels in the aquifers and in the wastewater effluent to or below the Maximum Contaminant Levels (MCLs, 40 CFR 141.61) or similar health-based criteria (a 10^{-6} risk level for carcinogenic constituents). Numeric performance standards have been presented in Table 6. Treatment should be permanent, and should effectively reduce the toxicity, mobility, and volume of the contaminants. Possible methods of treatment which were analyzed in the Feasibility Study include carbon absorption, air stripping, and chemical oxidation using ultraviolet (UV) light and either ozone or hydrogen peroxide. Any treatment system which may result in contaminant air emissions will be designed to meet appropriate state Air Toxics Guidelines and will

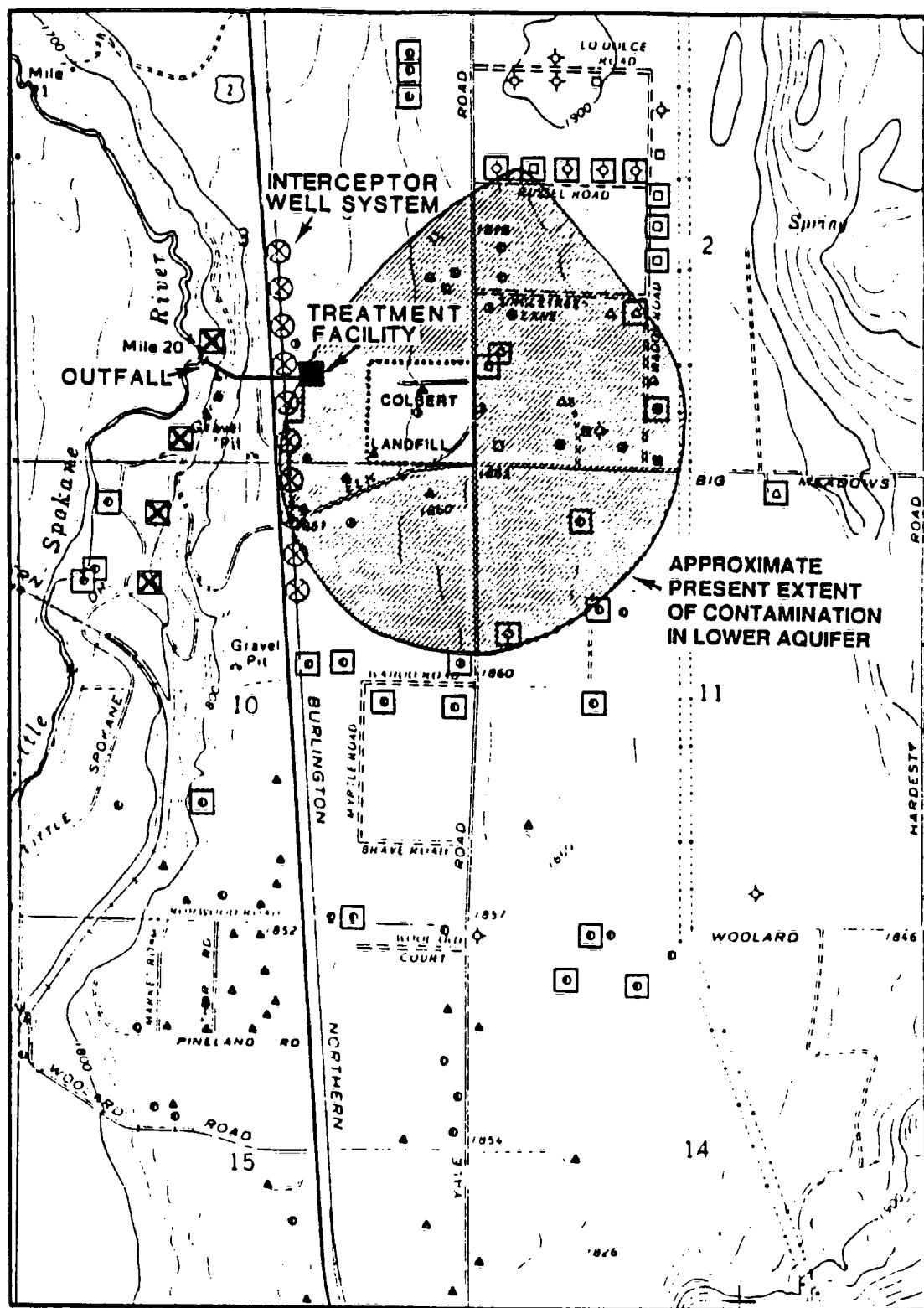


- ⊗ INTERCEPTOR WELL
- × NEW MONITOR WELL
- ▲ UPPER SAND AQUIFER WELL
- PERIODICALLY SAMPLED WELLS

**POSSIBLE REMEDIAL IMPLEMENTATION
FOR SOUTHERN AREA (CONCEPTUAL DESIGN)**

SOURCE: GOLDBER AND ENVIRONMENT 1987

FIGURE 10



0 1000 2000 3000 4000 Feet

- | | |
|--------------------------|------------------------------|
| ◇ UNKNOWN | ⊗ INTERCEPTOR WELL |
| ▲ UPPER SAND | ✕ NEW MONITOR WELL |
| ● LOWER SAND | □ PERIODICALLY SAMPLED WELLS |
| ● MULTIPLE COMPLETION | |
| ● WEATHERED BASALT/LATAH | |
| □ LATAH | |
| △ GRANITE | |

POSSIBLE REMEDIAL IMPLEMENTATION
FOR WESTERN AREA (CONCEPTUAL DESIGN)

SOURCE: GOLDER AND ENVIROSPHERE 1987

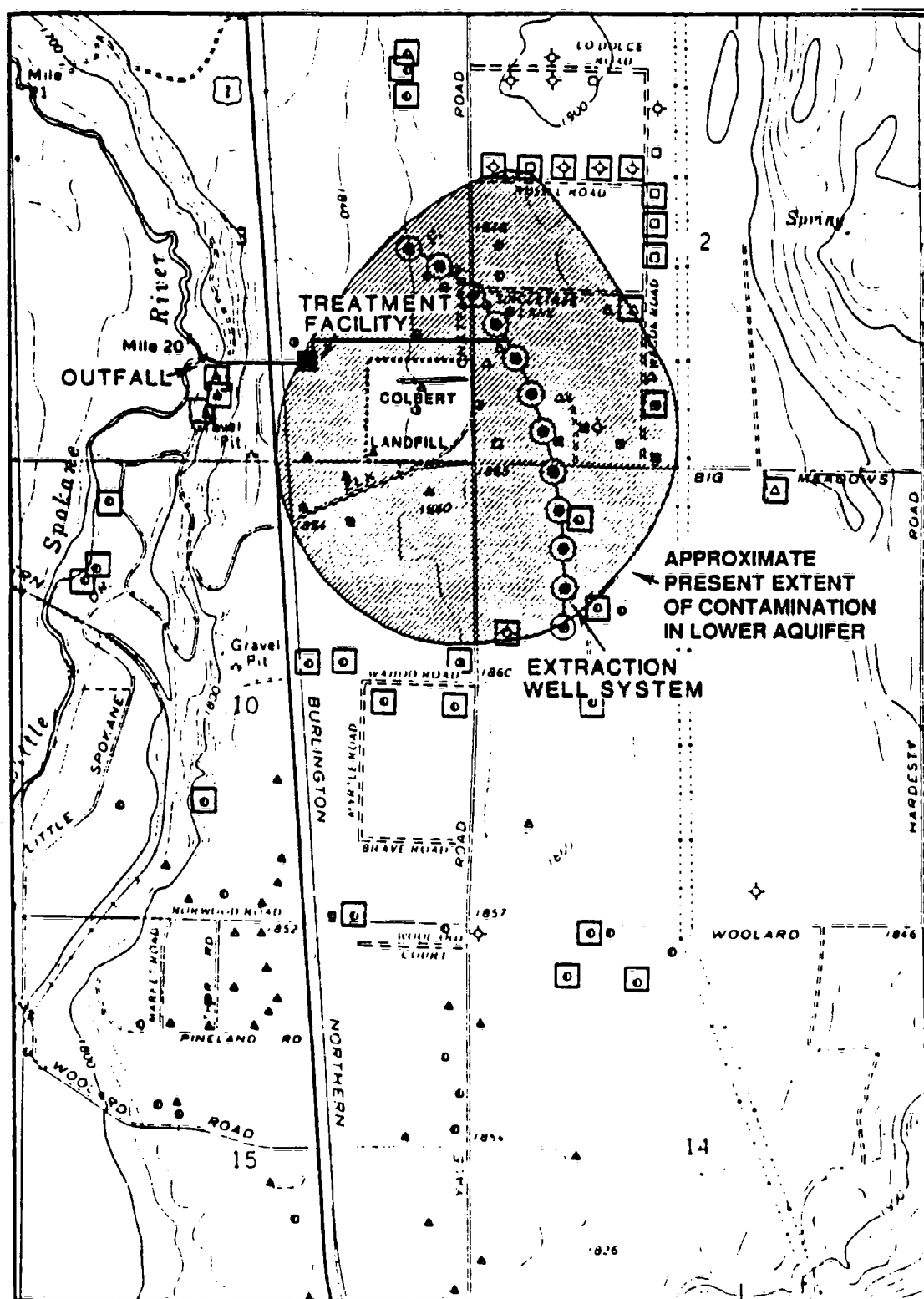
FIGURE 11

incorporate Best Available Control Technology (BACT). Periodic sampling of the effluent water stream will be required to assure adherence to the performance standards, and monitoring of air emissions will verify compliance in that regard.

Discharge of the treated water may be accomplished in any of a number of ways. The treatment alternatives recommended in the Feasibility Study included discharge of clean water to surface water streams, namely Little Deep Creek in the south and the Little Spokane River in the west. Because the treated water is a valuable resource, other options should be considered such as recharge of the aquifers via drainfield which may enhance interception through gradient reversal in the southern area. Release to the public is possible for some other beneficial use, such as irrigation, which would not threaten public health if the treatment system temporarily did not achieve performance standards.

In the plume origin (east) area, extraction will be carried out for the purposes of source control rather than management of migration. A possible configuration of the extraction and monitoring wells is presented in Figure 12 as it was evaluated for Alternatives E-4, E-5, E-6, and E-7 in the Feasibility Study. In this arrangement twelve wells, approximately 180 feet deep and pumping 40 to 50 gpm each, would be used for extraction of the most highly contaminated groundwater in order to reduce the strength of the sources as quickly as possible. In addition, this suggested design shows 32 private wells which would be monitored, most of them already included in the monitoring configuration shown in Figure 11. No new monitoring wells are proposed for the plume origin area in this scenario. Treatment and discharge in this area will be similar and meet the same criteria as described above for the interception systems.

Extraction in the plume origin area will continue until the wells being monitored in that area show that the constituents have been permanently reduced below the health-based performance standard maximum levels. It



POSSIBLE REMEDIAL IMPLEMENTATION
FOR EASTERN AREA (CONCEPTUAL DESIGN)

SOURCE: GOLDER AND ENVIROSPHERE 1987

FIGURE 12

is anticipated that this may require decades of pumpage and treatment before the performance standards are reliably attained throughout the area of contamination. The treatment in the other areas, where further migration of the contaminant plume is being controlled, will also be based on the permanent reduction of contamination levels below the same health-based performance standards. This will probably require a longer period to account for the time of transport from the source areas to the downgradient extent of contamination where the extraction systems are located. In any case, the EPA will reevaluate the implemented system every five years to assure that it is working properly and to propose any modifications that could facilitate the remediation.

Those residents who are deprived of water, either because their well water quality shows demonstrated contamination from the landfill or due to the action of the extraction systems, will be connected to the alternate water supply system. Adequate and appropriate monitoring will be performed to demonstrate water quality is maintained. The present community water system serving the area, the Colbert Extension of the Whitworth Water District No. 2, may be upgraded to assure adequate supplies to all residents who may require alternate water. Enhancements will be designed to meet state public water system standards. Institutional controls will be developed consistent with the final design to assure the effectiveness of the remedial action.

Colbert Landfill will be closed in accordance with the State Minimum Functional Standards (WAC 173-304) for landfill closure, including capping, regrading, groundwater and gas monitoring, and post-closure maintenance. The state landfill closure regulations are consistent with EPA Guidelines for the land disposal of solid waste. The closure of the landfill under the State Minimum Functional Standards will need to be evaluated to ensure consistency with RCRA Hazardous Waste Regulations and will be addressed in the final ROD for this site.

STATUTORY DETERMINATIONS

The selected alternative meets all statutory requirements, particularly those of CERCLA, as amended by SARA. The highest priority in this regard is that the selected remedy (extraction, treatment, and discharge) is protective of human health and the environment; this can be demonstrated according to each of the potential threats. The containment of the contaminant migration to the south and west will be designed to reduce the mobility of the contaminants and prevent additional wells from becoming significantly contaminated, exposing residents in those areas to the contaminants through their drinking water. The containment will also prevent significant contamination from reaching surface water, mainly the Little Spokane River, thereby exposing recreational users of the river as well as fish and other aquatic life. Treating the extracted water will be designed to reduce the toxicity and volume of the contaminants and prevent them from returning to the environment.

The selected remedy will also meet all substantive laws and regulations of other Applicable or Relevant and Appropriate Requirements (ARARs). These are listed and their application is briefly described in Appendix B. The laws and regulations of concern include:

- o Resource Conservation and Recovery Act (RCRA, 42 USC 6901); RCRA regulations (40 CFR 261 to 280); Washington State Dangerous Waste Regulations (WAC 173-303); Minimum Functional Standards for Solid Waste Handling (WAC 173-304).

The selected remedy prevents further spread of groundwater contamination and constitutes a Corrective Action Program as specified in 40 CFR 264.100 and WAC 173-303-645(11). Closure of Colbert Landfill to State Minimum Functional Standards will be evaluated to ensure consistency with RCRA landfill closure standards.

- o Safe Drinking Water Act (SDWA, 42 USC 300); Primary Drinking Water Standards (40 CFR 141).

The selected remedy prevents exposing the public to drinking water which exceeds the Maximum Concentration Levels.

- o Clean Water Act (CWA, 33 USC 1251); National Pollution Discharge Elimination System (NPDES, 40 CFR 122); NPDES Permit Program (WAC 173-220).

The selected remedy treats the extracted water before discharge to surface water. Other, mainly procedural, aspects of the NPDES Permit system will be met during the design phase, although no permit is actually required.

- o Rules and Regulations of the State Board of Health Regarding Public Water Systems (WAC 248-54).

Enhancements to the alternate water supply system, in order to supply all residents who may require these supplies, will be in conformance with these regulations.

EPA review of the remedial design will assure that these, and all other requirements, will be met by the design which is ultimately implemented.

Finally, the selected remedy meets the requirements of cost-effectiveness and use of permanent solutions to the maximum extent practicable. The cost-effectiveness can be demonstrated by the fact that extraction treatment and discharge technologies are available that will meet the performance standards and have a lower cost than merely providing alternate water supply (See Table 6). The total (present worth) cost for the alternate water supply (Alternatives S-2, W-2, and E-2) is estimated to be almost \$24 million; the cost of ozone/UV oxidation for all three areas (Alternatives S-6a, W-7a, E-7a) is

estimated to be approximately \$16.5 million, not taking into account any cost savings associated with the treatment of two or more areas at a single facility (estimated to be \$1.6 million, see Section 6.2.1 of the Feasibility Study). It is possible that an air stripping treatment system, combined with vapor-phase carbon absorption, would be even more cost effective, as it should meet the performance standards at a present worth cost of approximately \$12.8 million (see Section 6.2.4 of the Feasibility Study).

The selected remedy meets the SARA preference to permanent solutions to the maximum extent practicable. Resource recovery is, however, not practicable as there is no market for the off-specification solvent mixture which could be recovered from the groundwater. Nevertheless, treatment technologies are used as a principal element of the remedy and they will effectively reduce the toxicity, mobility, and volume of the contaminants permanently.

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APPENDIX A
RESPONSIVENESS SUMMARY

COLBERT LANDFILL, SPOKANE, WASHINGTON
RESPONSIVENESS SUMMARY

This community relations responsiveness summary is divided into the following sections:

Section 1.0 Overview. This section discusses the U.S. Environmental Protection Agency's (EPA) preferred alternative for corrective action, and likely public reaction to this alternative.

Section 2.0 Background on Community Involvement and Concerns. This section provides a brief history of community interest and concerns raised during remedial planning activities at the Colbert Landfill site.

Section 3.0 Summary of Major Comments Received during the Public Comment Period and EPA's Responses to the Comments. Both written and oral comments are categorized by relevant topics. EPA's responses to these major comments are also provided.

Section 4.0 Remaining Concerns. This section describes remaining community concerns that EPA should take into consideration in conducting the remedial design and remedial action at the Colbert Landfill site.

Community relations activities conducted during remedial response activities at the Colbert Landfill site are listed in an attachment to this appendix.

1.0 OVERVIEW

The Washington State Department of Ecology (Ecology), as lead agency under a cooperative agreement with the U.S. Environmental Protection Agency (EPA), carried out the Remedial Investigation and Feasibility Study for the Colbert Landfill site north of Spokane. During the 1970s, the landfill had received industrial solvents and disposed of them in a way that allowed the chemicals to penetrate the underlying aquifer. These chemicals began to show up in nearby drinking water wells at levels high enough to cause public health concerns. The cleanup alternative which was recommended by Ecology's consultants, and in turn by Ecology to EPA, was to intercept the advance of the contaminants by extracting the contaminated water, treating it, and discharging the cleaned water. The cleaned water would meet health-based drinking water standards. This alternative is described in more detail in Chapter 4 of the Feasibility Study and in the Record of Decision.

This Responsiveness Summary describes concerns which the community has expressed in regard to the problems at the site, the recommended cleanup alternative, and the study process itself. The most severely impacted individuals, the nearby residents, have long complained that their welfare has not received proper attention from local and state agencies. These residents hope that the cleanup will be as quick and as thorough as possible and not raise additional problems through its implementation. On the other hand, two of the named responsible parties at the site, Spokane County and Key Tronic Corporation, are concerned that there was insufficient time for public review and that the cleanup would be too expensive. They asked Ecology or EPA to search out other potentially responsible parties to share the cleanup costs; EPA is now doing this.

Because of the scarcity of water and the reliance on ground water supplies in this area, clean water is a particularly important concern. Some citizens desire clean drinking water, but do not feel it is necessary to go to the additional time and expense to clean the aquifer.

Other concerns for some people include potential drying up of wells due to pumping, and possible flooding and erosion from river discharge.

2.0 BACKGROUND ON COMMUNITY INVOLVEMENT AND CONCERNS

Community interest in the Colbert Landfill contamination problem dates from 1980 when local residents complained to Ecology and the Spokane County Utilities Department that hazardous materials were being disposed of at the landfill. Community concern and involvement have remained strong since that time. Three key individuals, (b) (6), have been especially active in coordinating community meetings, increasing community awareness, and voicing area residents' concerns to the Utilities Department, Ecology, and EPA. They have been successful in getting attention from these agencies as well as in attracting media attention to the site. The major citizen concerns expressed about the Colbert Landfill contamination problems and how agencies have addressed these concerns are described below:

- 1) In October 1980, a resident near the landfill complained to Ecology and the Utilities Department that hazardous materials were being disposed of at the landfill.

Actions: Ecology investigations revealed that Key Tronic Corporation had disposed of solvents at the landfill and that several private wells were contaminated. Spokane County also began studying the extent of groundwater contamination, hiring George Maddox and Associates, Inc., to study the hydrogeology of the landfill site.

- 2) In the winter of 1981, citizens called the Utilities Department with questions on the Colbert site. The citizens had questions and concerns about: what the project status was; how the study was being conducted; how residents could get their water tested; where the contamination plume was heading; what the results were to date; what the study actions would show; what the County Commissioners were going to do; how contaminated water would effect health, children, and property values; whether the water was safe to drink;

whether it was carcinogenic; why there were fluctuations in the tests; how will it be tested for parts per billion; and what everyone else was doing?

Actions: Spokane County organized and implemented a community relations plan in conjunction with the Maddox Study. As part of the plan, the County maintained a record of citizens who called and developed a mailing list from the tax assessor's records. The Utilities Department held seven public meetings, beginning in May, 1981, to explain the intent of the Maddox study and to discuss study progress and the results of the water quality sampling program. The Utilities Department sent each homeowner in the well sampling program a copy of their test results and also posted water sampling results at the Colbert Water District Office.

- 3) Citizens' concerns from public meetings held by the Utilities Department in 1982 and 1983 included whether their water was safe to use, what the health impacts could be, and how the contamination would impact their property values. Citizens thought that a new water supply was needed immediately.

Actions: In February 1983, the Spokane County Health District advised residents with significantly contaminated wells to use bottled water. Spokane County and Key Tronic began supplying bottled water to some homes.

In March 1983, the Spokane County Tax Assessor discussed reassessing the homes affected by the ground water contamination. The county tax assessor established a plan for estimating the reduced value on homes within the 3/4-mile study area established by George Maddox and Associates, Inc.

- 4) Homeowners became frustrated by the absence of an immediate plan for an alternative water system and met with several water districts interested in serving the Colbert Landfill area.

Actions: In June 1984 Ecology documented the need for an alternative water supply to residents living near Colbert Landfill. The County approved a new water system and began construction in the fall of 1984. The system was completed in the winter of 1985. This new system, funded by Spokane County, Key Tronic, and state referendum money, served as an alternate water supply and as an Initial Remedial Measure for the Colbert Landfill Site.

- 5) In August 1985, EPA contractors alarmed three area families by telling one family that their well water was probably unsafe to drink. The family was afraid to use their water, contacted an attorney, and appeared on the evening news. They also boarded their 30 thoroughbred horses elsewhere. This incident caused the three area families to question who was in charge and who they should believe.

Actions: Spokane County and Key Tronic felt that the EPA contractor's mistakes had hampered an already fragile community relations effort. They worked with Ecology to encourage the EPA contractors to apologize to the family, to get an expert opinion, to retract their statements, and to admit that their employees had only rendered an opinion. Key Tronic supplied the family unlimited bottled water, and in September 1985 the family was hooked up to the Whitworth Water District.

- 6) Because of concerns that the public was not getting adequate information about the site, two area residents organized the Colbert Landfill Contaminate Area Committee in the fall of 1985. This committee was to gather information and make it available to everyone. The committee presented seven recommendations to the Spokane County Commissioners in December 1985.

The recommendations were:

- a) Free hookup for any household within the proposed area, the known contaminated area, and any future contaminated area regardless of the level of contamination of the household well at the time.
- b) Monthly water fees, maintenance, and any other associated fees to be borne by the known source of contamination, including Spokane County and Key Tronic Corporation, for a period of twenty (20) years.
- c) Property values in the area to be re-assessed due to the devaluation of property.
- d) Existing wells be utilized for outdoor irrigation with the installation of a stationary frost-proof yard hydrant to be installed free of charge to the property owner.
- e) Testing of wells in the area should continue at the existing schedule for a period of twenty (20) years at the expense of Spokane County and Key Tronic Corporation or longer if contamination stays at current levels or increases.
- f) Contaminant-related health problems may be pursued on a individual basis for an indefinite time, including future generations of the present residents.
- g) Any property owner who has previously accepted settlement and/or monies from Spokane County and Key Tronic Corporation were excluded from this proposal.

Actions: The Commissioners drafted a response in January 1986 that included specific conditions under which water would be supplied to the affected residents. Because of the restrictive conditions, citizen frustration increased.

- 7) EPA and Ecology released the Remedial Investigation/Feasibility Study report in May 1987, and held a public meeting to obtain comments. Citizens and Key Tronic complained that the three-week comment period was too short.

Actions: EPA extended the comment period by three weeks.

- 8) A newspaper editorial criticized EPA and Ecology for not using their investigatory and enforcement powers more fully, and for the shortness of the comment period. Key Tronic employees purchased a full-page newspaper ad supporting the editorial. They expressed the concern that Key Tronic was being treated unfairly and that other users of Colbert Landfill should share in the cleanup expenses.

Actions: As previously noted in No. 7 above, EPA extended the comment period. Ecology and EPA have notified Fairchild Air Force Base that it is a potentially responsible party. EPA is now searching for additional parties who may share responsibility.

- 9) During the public comment period, citizens expressed concern about wells drying up and the Little Spokane River flooding due to pumping and treating contaminated water and discharging the cleaned water. They also expressed concerns about emissions from the air stripping towers.

Actions: Ecology held two public meetings on September 9, 1987, to answer these questions.

3.0 SUMMARY OF MAJOR COMMENTS RECEIVED DURING THE PUBLIC COMMENT PERIOD AND AGENCY RESPONSES TO THE COMMENTS

Comments from members of the public, primarily Colbert area residents, regarding the feasibility study report are summarized below. Similar comments are grouped under the following headings: general, public participation process, contamination levels, and cleanup alternatives. Each comment is followed by a response from EPA.

The public comment period originally ran from May 15 to June 5, 1987, but was later extended to June 30, 1987, for a total of over six weeks. Ecology held a public meeting in Colbert on May 28, 1987, to explain the study and the alternatives. The consultants' selected alternative (Extraction-Treatment-Discharge-Expanded Water Supply) recommended air stripping for the treatment option and a river outfall for the discharge option. Many comments focused on this alternative and the various treatment and discharge options.

Detailed comment forms were distributed to all meeting attendees. Ecology received 29 completed forms and six letters by the June 30 deadline, primarily from Colbert area residents.

Meeting attendees were asked to rank the four cleanup alternatives on the comment form. The selected alternative (Extraction-Treatment-Discharge-Expanded Water Supply) was preferred by 26 of the 33 who expressed a preference. Six people preferred Alternate Water Supply. One person proposed a fifth alternative consisting of removal and treatment of the landfill waste.

Among the treatment technologies, air stripping received majority support. However, twelve people supported either carbon adsorption or chemical oxidation, primarily because of the potential air pollution from the air stripping process. The recommended option of discharging

the treated water into the river also received strong support. However, ten respondents favored recharge wells or drainfields because of fears of lowering the water table or flooding.

GENERAL

- 1) Identification of additional potentially responsible parties was a major concern, both at the public meeting and in subsequent written comments. Key Tronic and its employees were especially concerned about the equity of the company apparently being held largely responsible for the contamination and cleanup; they pointed out that the company has not been associated with all of the identified contaminants.

Agency Response: EPA and Ecology have identified three potentially responsible parties: the landfill owner (Spokane County) and two major disposers of hazardous substances, Key Tronic Corporation and Fairchild Air Force Base. EPA is searching to identify other potentially responsible parties.

- 2) The cost of cleanup concerned several residents. Some felt that the proposed program may be too costly. One resident felt that the health risks had been overstated and that the funds could be better spent elsewhere in the county. Others felt that no expense should be spared to clean the aquifer. The most common response, however, was that the most cost-effective alternative be selected. This was mentioned frequently in support of the air stripping treatment option, which is less expensive than the other treatment technologies studied. The public was also concerned about the source and reliability of the cost estimates and who would pay the cost of the cleanup.

Agency Response: The cost information is based on data from equipment suppliers and costs of similar projects. Present knowledge does not indicate how long the contaminated ground water at the site will have to be treated, so 30 years was selected as a reasonable length of time for planning. Costs were estimated based on current pricing and technologies, then totalled over the 30-year period. The Superfund law stipulates that responsible parties pay the bill for cleanup whenever possible. Following the formal selection of the cleanup alternative at the Colbert Landfill site, EPA and Ecology will direct the responsible party or parties to undertake the cleanup as specified. If the responsible parties fail to comply with the request, EPA or Ecology will do the cleanup and sue to recover the cost. The responsible parties will also be requested to pay operations and maintenance costs for the cleanup measures.

The actual costs may be from 30 percent less than the estimates to 50 percent more. More accurate cost estimates will be made when the detailed project design is done.

Federal regulations specify that a less-effective cleanup action cannot be chosen simply because it is cheaper. However, if several alternatives are considered to be equally effective, EPA may select the least costly.

- 3) Property values have been a continuing issue with residents since contamination was first detected. Potential impacts of cleanup measures such as noise, odor, appearance, and air pollution on property values were a concern to several residents. A major corporate owner of undeveloped property expressed concern about the reduced value of the property if water were not available for future development.

Agency Response: Noise and air pollution generated by the remedial system will be within local, state, and federal regulatory standards. Similar facilities in other communities have operated successfully without problems or complaints related to noise and air pollution. The issues of future development and property values will be resolved consistent with implementation of the remedial action.

- 4) Immediate availability of clean, low-cost water has also been a continuing concern since the beginning of the project. The residents' highest priority is having an assured, convenient supply of clean drinking water. The citizens' committee has requested that clean water be supplied to everyone in the contaminated area. One resident suggested that, without this, property owners should not have to pay taxes because their land is unsaleable. At the same time, another person was concerned that expanding the Whitworth Water District supply lines to accommodate the long-term growth needs of the district would be unfair. Key Tronic and Spokane County also see it as unfair to charge them for these costs which would have been encountered even without the contamination problem.

Agency Response: The selected alternative requires that everyone affected by the contamination or the cleanup process be assured of a safe and adequate drinking water supply. Maintaining and improving the Whitworth Water District System will provide adequate domestic water supplies for present and future population in the area.

The Whitworth Water District water system may be adequate for in-home water use only. The risk assessment, Appendix A of the Feasibility Study, indicated that there should be no adverse health consequences from use of the contaminated ground water for outside purposes such as irrigation. It should be possible to continue to use existing wells for these high-consumption purposes as long as these lines are adequately isolated from the domestic supply systems.

- 5) The need for continued long-term monitoring of both drinking water and monitoring wells was emphasized.

Agency Response: The recommended cleanup alternative provides continued monitoring of drinking water and monitoring wells. EPA or Ecology will supervise and manage the monitoring to ensure that it is done properly. Two kinds of monitoring would be conducted. The system monitoring program would frequently assess how well the ground water extraction and treatment system is working. The other monitoring program would track the spread of contaminants in the ground water.

PUBLIC PARTICIPATION PROCESS

- 1) Residents, particularly those who had been most involved in the process, sought assurance that their involvement would continue through the cleanup design process. A large corporate property owner also expressed the desire to be contacted during the design phase. One meeting participant, not a resident of the affected area, questioned the extent of citizen involvement and review up to this point.

Agency Response: EPA and Ecology have appreciated and encouraged the level of public involvement experienced at Colbert Landfill in the process of selecting a cleanup alternative. The agencies will continue to work with the community and local residents to ensure public participation through the design and cleanup phases. Ecology will revise the Community Relations Plan before the design process begins.

- 2) Residents and one agency representative asked about regulatory controls or permit requirements relating to the treatment and discharge options. Specifically, they wanted to know if air and water discharges would be subject to state or federal law.

Agency Response: Cleanup actions at Colbert Landfill do not require permits because of the Federal Superfund law. However, the actions must comply with the intent and purpose of any regulations that would normally apply. Such applicable regulations would include National Pollution Discharge Elimination System provisions of the Clean Water Act, local air quality standards, and others. Monitoring of air and water discharges will assure compliance with these standards.

CONTAMINATION LEVELS

- 1) Several questions were asked to clarify the remedial investigation findings. One person asked if the contamination levels in various parts of the aquifers had changed over time in relation to the EPA standards. Another person asked why the report seemed to indicate that 90 percent of the pollutants disposed of in the landfill had not been accounted for in the ground water.

Agency Response: Some wells have shown constant contamination levels. In other wells, the concentrations have been decreasing. In still others, the levels have fluctuated. The wells that are showing fairly constant concentrations appear to be near "pools" of contamination in the aquifers. These pools have remained at high levels for several years. This suggests that these pools are still in place and still releasing contaminants. It is likely that much of the 90 percent referenced above is in these pools and the other 10 percent lost to evaporation at the time of disposal (see the Remedial Investigation Report, Section 5.4.1, pp. 76-77 for more information). In the upper aquifer, contamination appears to be decreasing.

- 2) A long-time resident of the area asked if capping the landfill in 1980 would have prevented the spread of the contaminants in the ground water.

Agency Response: By 1980 contaminants had already been documented in wells northeast of the landfill, so capping would have been too late and not particularly useful. Colbert Landfill was operated until late 1986; capping a working landfill would be a difficult task, particularly for a landfill as large and as active as this one. Pure solvents travel through the ground easily; they were dumped into the landfill in such large quantities that it is likely that even with capping they would have reached the ground water on their own accord. From the time they reached the ground water, probably well before 1980, the contaminants have continued to migrate away from the landfill area due to the natural flow in the aquifers.

REMEDIAL ALTERNATIVES

Extraction Options

- 1) There were major concerns about lowering the ground water levels and possibly drying up existing wells through the extraction of large amounts of ground water for treatment. Many wells in the area already have low water levels during the summer. Water is needed for irrigation even if another water supply is available for domestic use. A related concern was that lowering the water table would increase the flow of contaminants, including iron, into the aquifers.

Agency Response: The wells will be designed to intercept the contaminant plume to remove the contaminated water. The water which is extracted is obviously not available for other uses. Clean water is, however, also being carried along around the edges of the plume. Current information on the upper aquifer, which is more likely to be depleted, indicates that the proposed system

would only reduce water levels by about two feet near the extraction wells. Over 100 feet away, the reduction would be insignificant. Thus, the extraction systems should not violate the existing water rights in the area. The impacts on people who use more than their water rights allow is not known at this time. The design of the wells will be refined through additional testing during the design phase to ensure that adverse impacts are minimized.

The extraction system would not cause high iron concentrations and other problems associated with the deep aquifer to spread to more shallow aquifers because water will not be drawn from these deeper zones.

- 2) One person suggested that the existing monitoring wells be incorporated into the extraction well system.

Agency Response: Most existing monitoring wells are two inches in diameter, too small to extract the necessary amount of water. In addition, the monitoring wells, with their known history of contamination levels, will be needed to observe the changes that occur during the cleanup process.

Treatment Options

- 1) The public questioned the effectiveness of the alternatives studied, wanting assurance that the recommended technologies had been used successfully elsewhere. They also wanted the process to clean both aquifers effectively, completely, and in a reasonable time period.

The alternative which has been selected by the EPA, ground water extraction and treatment, has been employed successfully at many sites around the country, using a variety of treatment technologies. Treatment similar to that proposed for the site has

been successfully used at other sites in Washington and sites across the country. EPA fully expects that it will be just as effective at the Colbert Landfill site and will eliminate the hazards posed by the ground water contamination. The spread of contamination will be controlled within two to three months following installation of the system. It may require a longer time to deplete the sources totally. The length of time the complete cleanup will take is still uncertain, but 30 years is being assumed for planning purposes.

- 2) The consultant-recommended treatment option, air stripping, provoked numerous comments. The greatest concern was about potential air pollution caused by the release of the contaminants taken out of the water. Residents and an agency representative questioned whether any health risk assessment had been done and how consultants knew that the contaminants would present no health risk. There was also concern about its effectiveness, especially in removing methylene chloride. Some respondents suggested that treatment options be combined to take advantage of the strong points of each and minimize the weaknesses. One suggested the use of carbon adsorption as well as air stripping to alleviate the air pollution problem.

Agency Response: EPA has chosen not to specify a treatment technology for its selected cleanup alternative, but rather let the PRPs (or EPA or Ecology, if either does the cleanup) have the widest latitude for designing a treatment system which will meet the cleanup needs of the site. Air pollution issues will be studied throughout in the design process. The option selected will be the best for cleaning the water to drinking water standards and safeguarding air quality. The option eventually selected may be a combination of technologies such as air strippers with carbon filters. In any case, it will meet Air Toxic Guidelines and will use Best Available control Technologies (BACT).

The possibility of combining technologies was evaluated in the Feasibility Study; Alternatives W-6 and E-6 discuss combining carbon adsorption and air stripping. These were found to be less cost-effective in cleaning the water. Using carbon filters in the air stripping towers to clean the air emissions may be considered as a possible design; it is described in Section 6.2.4 of the Feasibility Study. Carbon filters would capture the contaminants so that they can be destroyed as part of their treatment.

Methylene chloride is the most difficult of the contaminants to remove through air stripping. Nevertheless, a treatment system can be specifically designed to remove this and other contaminants to concentrations below drinking water standards.

- 3) Other concerns were raised that the moisture emitted by air stripping towers could cause ice and heavy fogs on nearby roads.

Agency Response: Similar systems with air strippers have been successfully used throughout the country, including Michigan and Wisconsin which have more severe winter climates than this area. Devices are included in the air strippers to reduce moisture emissions. References do not indicate problems on nearby highways. No matter what treatment system is used, if problems develop, the configuration will be modified to assure that such problems are resolved.

- 4) Other potential impacts also received comment, including possible noise, odors, and the appearance of air stripping towers.

Agency Response: All of these factors will be considered extensively in designing the project. Noise, odors, and appearance have been considered at other sites and resolved satisfactorily to adjacent residents. Odors, in particular, would not be discernable even directly in the exhaust.

- 5) Disposal of the contaminated carbon used for the carbon adsorption process was a concern for one person.

Agency Response: The contaminated carbon would be disposed of through incineration at a facility in Yakima. Hazards associated with transporting it there are minor; even in the event of a complete spill of the carbon, few adverse impacts are likely because the contaminants would remain in the carbon itself.

- 6) One resident asked how bacteria growth in the treatment equipment would be controlled to maintain water quality.

Agency Response: Bacterial growth has been successfully controlled at similar facilities. We are presently envisioning the occasional use of chlorination to control bacterial growth.

Discharge Options

- 1) One of the concerns expressed most frequently was that discharging large quantities of water into the Little Spokane River would cause flooding and erosion. One resident requested that a contingency plan be discussed in the event that flooding and low well water levels do occur. It was urged that the river outfall be constructed to eliminate hazards to both humans and animals, since the river is heavily used for swimming.

Agency Response: The discharge from the recommended alternative is only about 4 cubic feet per second (cfs), which is 31 gallons per second. This is only about 2 percent of the mean flow in the Little Spokane River which is 236 cfs. Such a small addition is not likely to be discernible in its flooding potential. The ground water extracted, treated, and discharged to the Little Spokane River would have been discharged to it naturally anyway. Thus, the difference in flows in the river will be small over the long run.

Higher flows will occur for a few months when the treated water is first introduced and while the natural recharge is still occurring. Even during this transition time, the impact will be small.

It is possible to safely shut down the treatment system temporarily to avoid increasing the flood flows at all. Both this and the Little Deep Creek outfall will be dealt with in more detail during the design phase of the project.

The river outfall will be constructed to eliminate hazards to people (especially children) and animals. Normally the flows will be relatively constant, so the chance of anyone being caught unaware by a sudden increase in flow is unlikely.

- 2) The public wanted assurance that the water discharged into surface streams would be effectively treated so it would be safe for humans, fish, and animals. They also requested safeguards to prevent accidental discharge of contaminated water in case of treatment equipment failure.

Agency Response: The discharge water will be analyzed frequently to assure that the water is suitably clean. Detection systems may be included to shut down the equipment in the event of a failure. Even if a failure occurred, the effect would be temporary and would not have environmental or public health effects.

- 3) Other potential uses for the cleaned water provoked considerable comment. Some residents considered the discharge into the river to be a waste of a resource. They suggested such options as using it for irrigation, for the Whitworth Water District, or for a new recreational reservoir.

Agency Response: No alternate uses of the discharge water were discussed in the Feasibility Study because no other use is likely to be able to absorb all the water that must be discharged, especially during the winter months. Ecology studied the option of the Whitworth Water District using the water. However, the system would produce more than the District could handle. It is possible that alternate uses could be developed when the design is prepared. One important point of contention remaining is who should pay for any additional facilities required.

- 4) One of the other discharge options studied, discharge into a drainfield, also provoked several comments. One was that it would cause a build-up of water, resulting in swamps, ice, and pests. Another person was concerned that this option would cause water to carry more contaminants down to the aquifer. However, several people favored recharge wells or drainfields to maintain the level of the aquifer and prevent drying up of existing wells.

Agency Response: Given the very permeable soils in the area, it is unlikely that swamps could develop. Instead, the water would seep very readily into the upper aquifer. It is unlikely that these flows could carry contaminants into the aquifers unless the treatment system breaks down. A potential advantage of the drainfield option is that the water would be directly returned to the aquifer and be available for additional use downstream. However, this would involve some of the water being treated again and result in higher treatment costs. These issues will be considered in project design.

- 5) One resident questioned whether the private ownership of the bed of the Little Spokane River had been considered in the planning phase. She also asked what action would be taken if owners refused to grant easements for discharge facilities.

Agency Response: EPA recognizes the private ownership of the riverbed. The water within the Little Spokane River belongs to the state, but the bedlands of the river are in private ownership. EPA believes that the likelihood of contaminating the river bed is low.

EPA will work with landowners to make arrangements for putting in towers or excavating to put in pipes or river outfalls. However, if arrangements cannot be made, EPA will pursue other means to obtain easements. The government has a responsibility to maintain the public health and safety of its citizens.

4.0 REMAINING CONCERNS

Several issues have been discussed extensively, but have not yet been totally resolved. These issues include:

- o Will alternative uses of the cleaned water be identified?
- o How will the issue of property values be addressed?
- o How will the extent and cost of improvements to the Whitworth District be determined?
- o How will Colbert residents who have not declared legal rights to the irrigation water they are currently using be affected by the potentially decreased water levels?

ATTACHMENT

COMMUNITY RELATIONS ACTIVITIES CONDUCTED AT THE COLBERT LANDFILL SITE

Community relations activities conducted at the Colbert Landfill site to date include:

- o Spokane County developed a community relations plan for the Colbert Landfill site (April 1981).
- o Spokane County held a public meeting to discuss the monitoring and water quality sampling program (May 1981).
- o A press release was issued by Spokane County to announce public meetings scheduled for December 1 and 3 (November 1981).
- o Spokane County held two public meetings to discuss the results of the first phase of the study (December 1981).
- o Spokane County had a public meeting to discuss the intent of the second phase of the study (February 1982).
- o Spokane County held a public meeting to discuss study activity (October 1982).
- o Spokane County established an information repository at the Colbert Water District Building (1982).
- o Spokane County Health District met with residents to discuss further results of the study (February 1983).
- o Fact sheets on the well sample test results were sent to the well owners (1983).

- o Affected residents began receiving bottled water from Key Tronic Corporation and Spokane County (March 1983).
- o Spokane County held a public meeting to present the intent of the third phase of the study (March 1983).
- o Remedial Action Master Plan (RAMP) was published (August 1983).
- o EPA designated Colbert Landfill a National Priorities List (NPL) site (August 1983).
- o A press release was issued by Spokane County on the alternative water system selected (November 1983).
- o A letter on the chosen water system alternative was sent by Spokane County to concerned citizens (November 1983).
- o Public comments on the alternative water supply were addressed by Spokane County at public meetings (May - November 1983).
- o Ecology prepared a Focused Feasibility Study for Initial Remedial Measures (June 1984).
- o An alternate water supply was constructed as an initial remedial measure (1984-1985).
- o EPA authorized soil, gas, and earth resistivity tests (August 1985).
- o Ecology met frequently with citizens, County officials, and Key Tronic Corporation representatives (1985-1987).
- o Ecology held a public meeting to discuss the results of the Remedial Investigation and plans for the Feasibility Study (May 1986).

- o Ecology released the Feasibility Study (FS) for public review and comment and held a public meeting (May 1987).
- o Public comments on the FS were accepted (May 18 - June 30, 1987).
- o Public meetings were held (September 9, 1987) to discuss citizen concerns.
- o Responsiveness Summary finalized (September 1987).
- o Record of Decision written (September 1987).

APPENDIX B

APPLICABLE, OR RELEVANT AND
APPROPRIATE REQUIREMENTS

APPENDIX B

Applicable, or Relevant and Appropriate Requirements

Federal Laws and Regulations

- o Resource Conservation and Recovery Act (RCRA) (42 USC 6901), Subtitle C:
 - protection of groundwater (40 CFR 264, Subpart F)
 - closure and post-closure of landfills (40 CFR 264, Subpart G)

[Note: These are administered by Ecology under Dangerous Waste Regulations, WAC 173-303.]
- o Safe Drinking Water Act (SDWA) (42 USC 300):
 - Drinking Water Standards (40 CFR 141), including both enforceable maximum contaminant levels (MCLs) and recommended maximum contaminant levels (RMCLs).

<u>Contaminant</u>	<u>RMCL</u> (µg/l)	<u>MCL</u> (µg/l)
1,1,1-Trichloroethane (TCA)	200	200
Trichloroethylene (TCE)	0	5
1,1-Dichloroethylene (DCE)	7	7

- Underground Injection Control (UIC) standards (40 CFR 146)
[Note: UIC standards are administered by Ecology under WAC 173-218.]

- o Clean Water Act (CWA) (33 USC 1251):
 - National Pollutant Discharge Elimination System (NPDES) (40 CFR 122)
[Note: NPDES program is administered by Ecology under WAC 173-220.]
- o Clean Air Act (CAA) (72 USC 7401):
 - National Emission Standards for Hazardous Air Pollutants (NESHAPS)
[Note: NESHAPS Program is administered by Ecology and Spokane County Air Pollution Control Agency under WAC 173-403.]

Washington State Laws and Regulations

- o Dangerous Waste Regulations, WAC 173-303. Applicable for handling contaminated groundwater which could be considered a dangerous waste.
- o Minimum Functional Standards for Solid Waste Handling, WAC 173-304. Requirements for closure of solid waste disposal facilities such as Colbert Landfill.
- o Washington Department of Ecology Final Cleanup Policy. Used for guidance in establishing cleanup levels.
- o Water Quality Standards for Waters of the State of Washington, WAC 173-201. Applicable in determining acceptable contaminant levels in Little Spokane River or Little Deep Creek if treated water is discharged into them.
- o Submission of Plans and Reports for Construction of Wastewater Facilities, WAC 173-240. Applies to the treatment system designed to meet performance standards.

- o National Pollutant Discharge Elimination System Permit Program, WAC 173-220. Applicable if treated water is discharged through an outfall into surface waters.
- o Underground Injection Control Program, WAC 173-218. Applicable if treated water is reinjected into the ground for contaminant migration control.
- o State Waste Discharge Permit Program, WAC 173-216. A permit is required for the disposal of treated water via drainfields.
- o Washington Clear Air Act, RCW 70.94. Applicable for discharging pollutants into the atmosphere from a new source.
- o General Regulations for Air Pollution Sources, WAC 173-400.
- o Implementation of Regulations for Air Contaminant Sources, WAC 173-403.
- o Emission Standards and Controls for Sources Emitting Volatile Organic Compounds (VOC), WAC 173-490.
- o Water Code, RCW 90.03 and Water Rights, RCW 90.14. Establishes water rights permits necessary for water withdrawals, including groundwater extraction.
- o Protection of Withdrawal Facilities associated with Ground Water Rights, WAC 173-150. Restricts activities which would impair senior groundwater rights, including water level lowering and water quality degradation.
- o Protection of Upper Aquifer Zones, WAC 173-154. Also restricts activities which would impair senior groundwater rights, including water level lowering and water quality degradation.

- o Minimum Standards for Construction and Maintenance of Water Wells, WAC173-160. Governs design of extraction and recharge wells.
- o Water Well Construction Act, RCW 18.104.
- o State Environmental Policy Act (SEPA), WAC 197-11.
- o Water Pollution Control Act, RCW 90.48. Authorizes the use of water quality regulations at hazardous waste sites.
- o Washington Water Quality Standards, WAC 173-201.

APPENDIX C

STATE CONCURRENCE WITH REMEDY

ANDREA BEATTY RINIKER
Director



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

Mail Stop PV-11 • Olympia, Washington 98504-8711 • (206) 459-6000

September 23, 1987

SEP 29 1987

Superfund Branch

Mr. Robie G. Russell
Regional Administrator
U.S. Environmental Protection Agency
Region 10
1200 Sixth Avenue
Seattle, Washington 98101

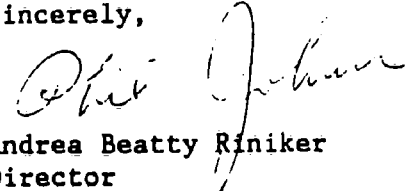
Dear Mr. Russell:

Interim Final Record of Decision (ROD) for
Colbert Landfill Site, Colbert, Washington

The Washington Department of Ecology has reviewed the Interim Final ROD for the Colbert Landfill site and concurs with the selected performance-based remedies as the final remedial action. We agree that in this situation prescribing performance standards for a pump and treat system is better than dictating a specific technology. There are several suitable technologies which will remediate the groundwater contamination associated with the Colbert Landfill. The alternate water supply system is also an important component of the remedial action.

We look forward to the upcoming consent decree negotiation sessions with the potential responsible parties. The outlook for a satisfactory settlement, especially with our unified effort, is very promising.

Sincerely,


Andrea Beatty Riniker
Director

ABR:MB:md

APPENDIX D

INDEX TO THE ADMINISTRATIVE RECORD

INDEX TO ADMINISTRATIVE RECORD OF COLBERT LANDFILL

Doc#	File	Type/Description	Date	# Pages	Author/Organization	Addressee/Organization
00000001.	Preliminary assessment	Potential hazardous waste site-identification and preliminary assessment	4/80	4	Neil Thompson, EPA	Unknown
00000002.	Preliminary assessment	Enforcement review	6/30/80	1	D. Stefani	Unknown
00000003.	Preliminary assessment	Colbert landfill, general description and background info. Time estimates for site cleanup	no date	5	Unknown	Unknown
00000004.	Site investigation report	Enforcement review/potential hazardous waste site - site inspection report/memo re same	6/30/80	11		
00000005.	Site investigation report	Sample and analysis review	5/19/80	1	C. Wilson, EPA	Unknown
00000006.	Site investigation report	Potential hazardous waste site - site inspection report	8/23/82	10	Mussein Aldis, EPA	Unknown
00000007.	State cooperative agreements	Cover letter/cooperative agreements between WDOE and U.S. EPA	2/29/84	39	Donald Moos, WDOE	Ernesta Barnes, EPA
00000008.	State cooperative agreements	Cover letter/EPA assistance agreement - amendment	4/13/84	7	Donald Moos WDOE	Frederick Meadows, EPA
00000009.	State cooperative agreements	Cover letter/IRM cooperative agreement-amendment between Washington WDOE and U.S. EPA	7/24/84	34	Donald Moos, WDOE	Ernesta Barnes, EPA
00000010.	State cooperative agreements	Cover letter/EPA assistance agreement-amendment	8/30/84	5	EPA	WDOE
00000011.	State cooperative agreements	Cover memo/memo re deviation memo for Colbert	9/11/84	2	Cristina Griffin, EPA	Phil Millan, EPA
00000012.	State cooperative agreements	Memo re Amendment of Superfund cooperative agreement No. V-000282-02-1	3/10/85	2	Neil Thompson, EPA	Oddvar Aurdal, EPA
00000013.	State cooperative agreements	Memo/completed cooperative agreement application re RI/FS	12/19/85	12	John Littler, WDOE	Ernesta Barnes, EPA
00000014.	State cooperative agreements Colbert RI/FS	EPA assistance agreement-amendment re	3/13/86	4	Charles Findley, EPA	Phillip Johnson, WDOE

<u>Doc#</u>	<u>File</u>	<u>Type/Description</u>	<u>Date</u>	<u># Pages</u>	<u>Author/Organization</u>	<u>Addressee/Organization</u>
00000015.	State cooperative agreements	Memo/letter re Extension of cooperative agreement	8/13/86	2	Neil Thompson, EPA	Oddvar Aurdal, EPA
00000016.	State cooperative agreements	Letter re project and budget extension for Colbert	8/15/86	1	Oddvar Aurdal, EPA	John Littler, WIXOE
00000017.	State cooperative agreements	Memo re Extension of project and budget periods for Colbert cooperative agreement	12/31/86	1	Neil Thompson, EPA	Oddvar Aurdal, EPA
00000018.	State cooperative agreements	Letter re time extension for feasibility study re Colbert	12/29/86	1	Fred Gardner, WIXOE	Kathy Davidson, EPA
00000019.	State cooperative agreements	Letter re project and budget extension for Colbert	2/27/87	1	Oddvar Aurdal, EPA	Phillip Johnson, WIXOE
00000020.	State cooperative agreements	Memo re extension of ending date for Colbert cooperative agreement	2/26/87	1	Neil Thompson, EPA	Oddvar Aurdal, EPA
00000021.	State cooperative agreements	Assistance amendment to extend project and budget period for Colbert	1/6/87	1	Oddval Aurdal, EPA	Phillip Johnson, WIXOE
00000022.	County-EPA cooperative agreements	Memo re proposed cooperative agreement with Spokane County for Colbert	9/24/81	9	Sam Morekas, EPA	Fred Meadows, EPA
00000023.	County-EPA cooperative agreements	Colbert landfill cooperative agreement-proposal. Attachments: Federal Assistance Application, A-95 Review Letter, statement of work, community relations plan	9/15/81	28	William Dobratz, Spokane County	EPA
00000024.	County-EPA cooperative agreements	Notification of assistance award action-nonconstruction re Colbert RI/FS	9/24/81	1	EPA	Spokane County
00000025.	County-EPA cooperative agreements	Letter/assistance agreement-amendment	10/19/81	5	William Dobratz, Spokane County	Neil Thompson, EPA
00000026.	County-EPA cooperative agreements	Commitment notice/grant funding order	9/24/81	2	Barbara Barras, EPA	Spokane County
00000027.	County-EPA cooperative agreements	Letter re extension of project completion date for Colbert grant	2/2/82	1	Neil Thompson, EPA	William Dobratz, Spokane County
00000028.	County-EPA cooperative agreements	Assistance amendment re extension of budget and project	3/29/82	1	Frederick Meadows, EPA	William Dobratz, Spokane County

Doc#	File	Type/Description	Date	# Pages	Author/Organization	Addressee/Organization
00000029.	County-EPA cooperative agreements	Letter re extension of project completion date	5/27/82	1	William Dobratz, Spokane County	Neil Thompson, EPA
00000030.	County-EPA cooperative agreements	Assistance agreement-amendment re Colbert disposal site	9/24/81	4	Frederick Meadows, EPA	Spokane County
00000031.	State cooperative agreements	Letter re extension of date of Colbert cooperative agreement	10/7/86	1	Fred Gardner, WDOE	Kathy Davidson, EPA
00000032.	Work plans	Memo re Colbert landfill transfer agreement; transfer agreement	7/18/84	4	Don Dubois, WDOE	Lynda Brothers
00000033.	Work plans	Site management plan for Colbert landfill	10/1/84	3	Unknown	Unknown
00000034.	Work plans	Memo/attachments re work plan for geophysical bore hole logging, cost estimate, QA/QC plan, statement re conflict of interest	1/9/85	7	Bruce Auld, Geo/Resource Consultants	Douglas Morrell
00000035.	Work plans	Work plans for remedial investigation of Colbert landfill	1/29/85	49	Golder Assoc.	WDOE
00000036.	Work plans	Work plan for feasibility study at Colbert landfill site	2/86	38	Golder Assoc. and Envirosphere	WDOE
00000037.	Work plans	Work plan Colbert landfill site	No date	4	Unknown	Unknown
00000038.	Groundwater investigation and report	Letter/request for proposals re hydro-geological report and monitoring wells for Spokane County operated landfills	2/6/81	8	William Dobratz	WDOE
00000039.	Groundwater investigation and report	Letter/agency response forms re hydro-geological and monitoring wells project	2/26/81	12	Martha, Shannon, Spokane Regional Planning Conf.	Damon Taam, Spokane County
00000040.	Groundwater investigation and report	A description of tasks and subtasks used for estimating the cost of Phase I	4/10/81	3	Unknown	Tech.Operations Section
00000041.	Groundwater investigation and report	Agreement between owner/client and George Maddox & Associates, for professional services	4/21/81	37	George Maddox & Assoc.	Spokane County
00000042.	Groundwater investigation and report	Letter/attachments re proposed budget for Phase II of Colbert/Mica landfill investigation	8/31/81	11	George Maddox & Assoc.	Damon Taam, Spokane County

Doc#	File	Type/Description	Date	# Pages	Author/Organization	Addressee/Organization
00000043.	Groundwater investigation and report	Resolution No. 81 1046 of Spokane County Board of Commissioners re hydrogeologic report including well installation and monitoring at Colbert and Mica/attachments	9/17/81	3	Spokane County Board of Commissioners	Unknown
00000044.	Groundwater investigation and report	Preliminary report on a geohydrology of the Colbert landfill--Spokane County, WA. Phase I (document located at WDOE)	11/9/81		George Maddox & Assocs, James Montgomery, Consulting Engrs.	Spokane County Utilities Dept.
00000045.	Groundwater investigation and report	Letter/Phase II progress report	2/26/82	5	Damon Taam, Spokane County	Neil Thompson, EPA
00000046.	Groundwater investigation and report	Letter/Phase II progress report re geohydrologic study of Colbert and Mica landfill sites	5/24/82	14	George Maddox, George Maddox & Assocs.	William Dobratz, Spokane County
00000047.	Groundwater investigation and report	Letter/attachments re technical, property, financial status and summary reports re grant CA 809777-01	12/15/82	6	Damon Tamm, Spokane County	Betty Gordon, EPA
00000048.	Groundwater investigation and report	Letter/attachments re resistivity data collection, proposed budget, graphs	7/7/83	8	Tim Cook, George Maddox Assocs.	Damon Taam, Spokane County Utilities Dept.
00000049.	Groundwater investigation and report	Cover letter/final report re Colbert landfill groundwater monitoring program	3/23/84	119	George Maddox, George Maddox & Assocs.	William Dobratz, Spokane County
00000050.	Groundwater investigation and report	Report: Geophysical Borehole Logging--Colbert landfill (Document located at WDOE)	2/86		Geo/Resource Consultants	Golder Assocs.
00000051.	Groundwater investigation and report	Colbert landfill background information, progress report Phase I, work plan info and budget for Phase II	Unknown	19	Unknown	Unknown
00000052.	Groundwater investigation and report	Report: Geohydrologic Investigations of Colbert landfill - Phase II	Unknown	205	George Maddox & Assocs., James Montgomery Consulting Engrs.	Spokane County Utilities Dept.
00000053.	Groundwater investigation and report	Request for proposals re hydrogeologic report and monitoring wells for Spokane County operated landfills	2/3/81	7	Unknown	Unknown

Doc#	File	Type/Description	Date	# Pages	Author/Organization	Addressee/Organization
00000054.	Remedial action management plan (RAMP)	Memo re review of Colbert landfill draft RAMP	8/29/83	2	Rene Fuentes, EPA	Neil Thompson, EPA
00000055.	RAMP	Letter re review of Colbert landfill draft RAMP	8/29/83	2	John Anicetti, Spokane County Health Dept.	Neil Thompson, EPA
00000056.	RAMP	Draft RAMP for Colbert landfill	7/29/83	124	Unknown	EPA
00000057.	Initial Remedial Measure (IRM)	Letter/summary report re Colbert landfill water supply and interlocal cooperation agreement between Spokane County and Whitworth Water District No. 2	3/23/84	22	James Legat, Spokane County	Bob Goodman, WDOE
00000058.	IRM	Report: Focused Feasibility Study for IRM at Colbert Landfill	6/84	78	Carol Thompson, WDOE	Unknown
00000059.	IRM	Record of decision re IRM alternative selection for Colbert Landfill/Summary of Interim Remedial Alternatives Selection	8/24/84	18	Ernesta Barnes	Unknown
00000060.	IRM	Decision memo re IRM for Colbert landfill	8/24/84	3	Charles Findley, EPA	Ernesta Barnes, EPA
00000061.	IRM	Memo re Colbert landfill advance match provisions/Assistance Funding Order	8/29/84	2	Russell Wyer, EPA	Chuck Findley, EPA
00000062.	IRM	Briefing for the regional administrator, record of decision, Colbert landfill	Unknown	1	Unknown	Unknown
00000063.	IRM	Report: Responsiveness Summary for IRM at Colbert Landfill	Unknown	15	Carol Thompson, WDOE	Unknown
00000064.	Remedial Investigation (RI) Report	Potential hazardous waste site log	2/26/80	1	J. W. Fey	Unknown
00000065.	RI Report	Report: Evaluation of a Temporary Groundwater Extraction Measure for Colbert Landfill	9/25/85	17	Golder Assoc.	Unknown
00000066.	RI Report	Report: Remedial Investigation Report for the Colbert Landfill, Spokane, WA, Vol. 1	5/87	122	Golder Assoc.	WDOE

<u>Doc#</u>	<u>File</u>	<u>Type/Description</u>	<u>Date</u>	<u># Pages</u>	<u>Author/Organization</u>	<u>Addressee/Organization</u>
00000067.	RI Report	Report: Remedial Investigation Report for the Colbert Landfill, Spokane, WA, Vol. 2	5/87	259	Colder Assoc.	WDOE
00000068.	Feasibility Study (FS)	Report: Feasibility Study, Colbert Landfill, Spokane, WA Vol. 1	5/87	360	Colder Assoc.	WDOE
00000069.	Feasibility Study (FS)	Report: Feasibility Study, Colbert Landfill, Spokane, WA, Vol. 2	5/87	226	Colder Assoc.	WDOE
00000070.	Correspondence, RI/FS	Letter re work plan for County-EPA cooperative agreement	8/26/81	1	Joanne Fujita Asaba, EPA	Damon Taam, Spokane County Utilities
00000071.	Correspondence, RI/FS	Memo re summary report of Colbert alternatives	4/5/84	2	Bob Goodman, WDOE	James Legatt, Spokane County Utilities
00000073.	Correspondence, RI/FS	Letter re State cooperative agreement for RI/FS at Colbert landfill	6/15/84	1	Charles Findley, EPA	Lynda Brothers, WDOE
00000074.	Correspondence RI/FS	Letter with attachment re proposed field investigation at Colbert landfill	4/2/85	5	Jeff Vanke, EPA	Carol Kraege, WDOE
00000075.	Correspondence RI/FS	Letter re increased costs of RI/FS	1/14/86	2	Carol Kraege, WDOE	Nell Thompson, EPA
00000076.	Correspondence RI/FS	Letter re amendment to State cooperative agreement for performance of RI/FS tasks at Colbert landfill	3/15/86	1	Charles Findley, EPA	John Littler, WDOE
00000077.	Correspondence RI/FS	Letter re commencement of RI and requesting deferral of commencement date of RI study phase	4/16/86	2	Spokane County Board of Commissioners	Carol Kraege, WDOE
00000078.	Correspondence RI/FS	Letter re review of RI and delay of start of FS	4/17/86	2	Lewis G. Zirkle, Key Tronic	Carol Kraege, WDOE
00000079.	Correspondence RI/FS	Letter re request for delay of FS	5/5/86	2	Carol Kraege, WDOE	Spokane County Board of Commissioners
00000080.	Correspondence RI/FS	Letter re Key Tronic's wish to assume responsibility for investigation and remedial action at Colbert landfill	7/16/86	2	Gary Haight, Key Tronic	Fred Gardner, WDOE
00000081.	Correspondence RI/FS	Letter re response to Haight's letter of 7/16/87	8/27/86	4	Fred Gardner, WDOE	Gary Haight, Key Tronics

<u>Doc#</u>	<u>File</u>	<u>Type/Description</u>	<u>Date</u>	<u># Pages</u>	<u>Author/Organization</u>	<u>Addressee/Organization</u>
00000082.	Correspondence RI/FS	Letter re projected schedules for Colbert and Northside	8/25/86	1	Neil Thompson, EPA	Fred Gardner, WDOE
00000084.	Correspondence RI/FS	Letter re Pounder's Excavation's availability for services re decontaminate Colbert landfill	2/10/87	2	Bill Mann, Pounder's Excav.	EPA
00000085.	Correspondence RI/FS	Letter re time extension for FS	2/18/87	2	Fred Gardner, WDOE	Kathy Davidson, EPA
00000086.	Correspondence RI/FS	Letter re effects of SARA on Spokane County	3/17/87	4	Fred Gardner, WDOE	Jerry Neal, Lukins & Annis
00000087.	Correspondence RI/FS	Memo re selection of final remedial measure for Colbert landfill	3/16/87	2	Carol Kraege, WDOE	Colbert Landfill file
00000088.	Correspondence RI/FS	Letter re response to letter of 2/10/87 suggesting Pounder's availability of services re decontamination of Colbert landfill	4/20/87	1	Neil Thompson, EPA	Bill Mann, Pounder's Excavation
00000089.	Correspondence RI/FS	Letter re Colbert landfill RI/FS information requests	5/20/87	2	Paul Agid, Dames & Moore	Doug Morell, Golder Assoc.
00000090.	Correspondence RI/FS	Letter re Colbert landfill extraction/treatment system	5/27/87	2	Leo Hutchins, Whitworth Water District No. 2	Fred Gardner, WDOE
00000091.	Correspondence RI/FS	Letter re response to questions on Colbert landfill RI/FS	6/10/87	7	Anthony Burges, Golder Assoc.	Fred Gardner, WDOE
00000092.	Correspondence RI/FS	Letter re response to questions on Colbert landfill RI/FS	6/17/87	2	Golder Assoc.	Fred Gardner, WDOE
00000093.	Correspondence RI/FS	Letter re extension of public comments for Colbert landfill FS	6/19/87	1	Robie Russell, EPA	A. Pardini, Spokane Office of Sen. Dan Evans
00000094.	Correspondence RI/FS	Letter re Colbert landfill FS and southern area of Whitworth Water District water system	6/25/87	3	Leo Hutchins, Whitworth Water District No. 2	Pat Mumney, John McBride, Keith Shepard
00000095.	Correspondence RI/FS	Letter re Colbert landfill-RI/FS reports and attached resolution of Whitworth Water District No. 2 re drilling of wells	6/26/87	4	Leo Hutchins, Whitworth Water District No. 2	Fred Gardner, WDOE

<u>Doc#</u>	<u>File</u>	<u>Type/Description</u>	<u>Date</u>	<u># Pages</u>	<u>Author/Organization</u>	<u>Addressee/Organization</u>
00000096.	Memos RI/FS	Memo/attachments re information on Caron Chemical and Colbert Landfill sites	12/29/80	9	Don Dubois, EPA	Michael Cook, EPA
00000097.	Memos RI/FS	Memo re Superfund engineering feasibility design funds	5/22/81	2	Charles Findley, EPA	Michael Cook, EPA
00000098.	Memos RI/FS	Letter re Superfund Cooperative Agreement Guidance	8/26/81	1	Joanne Fujita Asaba, EPA	Tom Cook, WDOE
00000099.	Memos RI/FS	Memo re Superfund Cooperative Agreement for Colbert landfill	8/28/81	1	Joanne Fujita Asaba, EPA	Ed Coate, Alex Smith, Chuck Findley, Ken Feigner, John Barich, Neil Thompson, Lloyd Reed, Clark Gauding, Gary O'Neal, Cheryl Koshuta
00000100.	Memos RI/FS	Decision memo re Colbert Landfill Cooperative Agreement Proposal	9/18/81	2	John Spencer, EPA	Michael Cook, EPA
00000101.	Memos RI/FS	Memo re Colbert Landfill Cooperative Agreement Fact Sheet	9/25/81	3	Joanne Fujita Asaba, EPA	Mary Neilson, EPA Bob Jacobson, EPA
00000102.	Memos RI/FS	Memo re Colbert Landfill Cooperative Agreement	10/1/81	2	Charles Findley, EPA	John Spencer, EPA
00000103.	Memos RI/FS	Memo re Colbert landfill contamination- substituting for versus cleaning up an unusable aquifer	11/3/83	5	Michael Ruef, WDOE	Linda Brother, WDOE Earl Tower, EPA
00000104.	Memos RI/FS	Memo re Colbert landfill groundwater contamination, review corrective proposals by CH2MHill, Maddox Associates and other alternatives	12/15/83	8	Michael Ruef, WDOE	John Littler, WDOE
00000105.	Correspondence	Letter re additional EPA funding under current RAI	12/29/83	1	John Littler, WDOE	Phil Millam, EPA

<u>Doc #</u>	<u>File</u>	<u>Type/Description</u>	<u>Date</u>	<u># Pages</u>	<u>Author/Organization</u>	<u>Addressee/Organization</u>
00000106.	Correspondence	Letter re advance match funds at Colbert site	7/15/84	2	Phil Millam, EPA	John Littler, WDOE
00000107.	Quality Assurance Project Plans (QAPP)	Report: Quality Assurance Project Plan for Remedial Investigations at the Colbert Landfill (document located at Washington WDOE)	1/85	Unknown	Golder Assoc.	WDOE
00000108.	QAPP	Letter review evaluation of final version of Colbert landfill QAPP	5/9/85	1	Barry Towns, EPA	Doug Morell, Golder Assoc.

Doc#	File	Type/Description	Date	# Pages	Author/Organization	Addressee/Organization
0000109.	Public Comment Responsiveness Summary	Letter re: activities at the Colbert Landfill	12/8/86	2	Andrea Beatty Riniker, WDOE	Members of Colbert Landfill Contaminate Area Committee
0000110.	Public Comment Responsiveness Summary	Letter regarding earlier letter dated 4/17/87 to "Concerned Citizens"	4/24/87	3	(b) (6) Resident	Andrea B.T. Riniker, WDOE
0000111.	Public Comment Responsiveness Summary	Letters on Colbert Landfill; feasibility study report and comment period	5/21/87	71	Key Tronic employees, Key Tronic supporters, County commissioner, legislator, citizens of Colbert area & other areas	Andrea Beatty Riniker, WDOE
0000112.	Public Comment Responsiveness Summary	Letter re: extension of public comment period	6/17/87	1	Robbie Russell, EPA	Andrea Beatty Riniker, WDOE
0000113.	Public Comment Responsiveness Summary	Letter regarding Colbert Landfill feasibility study comments	6/29/87	3	Key Tronic Corp.	Fred Gardner, WDOE
0000114.	Public Comment Responsiveness Summary	Letter re Colbert Landfill remedial investigation and feasibility study	6/29/87	2	(b) (6), Colbert Landfill Contaminate Area Committee	Fred Gardner, WDOE
0000115.	Public Comment Responsiveness Summary	Letter regarding Colbert Landfill feasibility study comment	6/29/87	3	Patricia A. Munney, John R. McBride, Board of Commissioners of Spokane County	Fred Gardner, WDOE
0000116.	Public Comment Responsiveness Summary	Letter re feasibility study	6/29/87	1	Rhys A. Sterling, Spokane County Health District	Fred Gardner, WDOE
0000117.	Public Comment Responsiveness Summary	Letter regarding Spokane County Air Pollution Control Authority review of Colbert Landfill feasibility study	6/30/87	2	Christopher McEnany, Spokane County Air Pollution Control Authority	Fred Gardner, WDOE

<u>Doc#</u>	<u>File</u>	<u>Type/Description</u>	<u>Date</u>	<u># Pages</u>	<u>Author/Organization</u>	<u>Addressee/Organization</u>
00000118.	Public Comment Responsiveness Summary	Colbert Landfill remedial investigation/feasibility study comments for submission to WDOE	6/30/87	22	Dames & Moore, Key Tronic Corp.	WDOE
00000119.	Permits and/or applications--state/Federal	Industrial/commercial waste discharge permit application form	4/12/78	3	Key Tronic Corp.	WDOE
00000120.	Permit and/or applications--state/Federal	Hazardous waste permit application; Notification of Hazardous Waste activity	6/1/69	7	Lewis G. Zirkle, Key Tronic Corp.	EPA
00000121.	Reference materials or listing of guidance documents used	Guidances for administrative record (Actual guidances located at EPA Regional Office)		2	Neil Thompson, EPA	
00000122.	Community Relations & News Releases	Cover letter with attachments regarding cooperative agreement for EPA grant on Colbert disposal site; revised work statement; community relations plan	11/17/81	28	William R. Dobratz, Damon Taam, Spokane County Office of County Utilities	Neil Thompson, EPA
00000123.	Community Relations & News Releases	News release re Federal grant for groundwater contamination at Colbert	10/21/81	1	EPA	
00000124.	Community Relations & News Releases	Memo regarding immediate news release	11/24/81	1	Unknown	
00000125.	Community Relations & News Releases	Phase II Community Relations scheduling	11/24/81	2	Unknown.	
00000126.	Community Relations & News Releases	Letter re agenda of informal public meeting	11/25/81	1	William R. Dobratz, Spokane County	
00000128.	Community Relations & News Releases	Community relations plan for remedial investigation of feasibility study with appendices	No date	20	Carol Rushin Thompson, WDOE	
00000129.	Community Relations & News Releases	Colbert Landfill Community Meeting Notice with attachments	2/20/85	8	Unknown	
00000130.	Community Relations & News Releases	Colbert Landfill update	7/85	1	WDOE	

<u>loc#</u>	<u>File</u>	<u>Type/Description</u>	<u>Date</u>	<u># Pages</u>	<u>Author/Organization</u>	<u>Addressee/Organization</u>
00000131.	Community Relations & News Releases	Colbert Landfill update	8/85	1	WDOE	
00000132.	Community Relations & News Releases	News release re clean water for Spokane families with polluted wells	7/2/85	1	WDOE	
00000133.	Community Relations & News Releases	News release: Colbert Landfill meeting announced	10/23/85	1	WDOE	
00000134.	Community Relations & News Releases	Colbert Landfill update	10/85	1	WDOE	
00000135.	Community Relations & News Releases	Memo & minutes of county commissioners' meeting held January 8, 1986; Colbert Landfill Contaminate Area Citizens Proposals	1/10/86	4	Robin Swanson	
00000136.	Community Relations & News Releases	Notice of public meeting re RI	4/22/86	1	WDOE	
00000137.	Community Relations & News Releases	Memo re progress of Colbert Landfill Contaminate Area Committee	7/27/86	1	Colbert Landfill Contaminate Area Committee	Residents of Colbert
00000138.	Community Relations & News Releases	Letter re: current and future cleanup activities	8/5/86	3	Fred Gardner, WDOE	Residents
00000139.	Community Relations & News Releases	Memo with attached Colbert mailing list	8/26/86	24	Janet Rhodes, DOE	Nell Thompson, EPA
00000140.	Community Relations & News Releases	Newsletter--Colbert property owners' update	8/86	1	Spokane County--Key Tronic Corp.	
00000141.	Community Relations & News Releases	Public meeting notification and affidavit of publication	5/14/87	3	Jerry Jewell, WDOE	
00000142.	Community Relations & News Releases	Fact sheet re: proposed Colbert landfill cleanup	5/14/87	8	WDOE	
00000143.	Community Relations & News Releases	For Immediate Release: Ground-water cleanup views sought (News Release)	5/21/87	2	WDOE	
00000144.	Community Relations & News Releases	Agenda for Colbert Landfill meeting	5/22/87	1	WDOE	

<u>Doc#</u>	<u>File</u>	<u>Type/Description</u>	<u>Date</u>	<u># Pages</u>	<u>Author/Organization</u>	<u>Addressee/Organization</u>
00000145.	Community Relations & News Releases	Letter re extension of public comment period	5/28/87	1	Andrea Beatty Riniker, WDOE	Robie Russell, EPA
00000146.	Community Relations & News Releases	Colbert Landfill public meeting transcript	6/9/87	114	Jeanne Bullis, Reiter & Assocs.	
00000147.	Community Relations & News Releases	Air water pollution report Around The States	6/15/87	1	Unknown	
00000148.	Community Relations & News Releases	Cleaning up the Colbert Landfill (general information)		4	Unknown	
00000149.	Newspaper articles	Chemical Cleanup money may go to Colbert Landfill	1/09/81	1	Jeff Sher, Spokesman-Review	
00000150.	Newspaper articles	County is expecting report early in '82 on aquifer's quality	12/11/81	1	Kim Crompton, Spokane WA Weekly Chronicle	
00000151.	Newspaper articles	Households near landfill demand end to pollution	11/17/82	1	Kim Crompton, Chronicle	
00000152.	Newspaper articles	13 Waste sites proposed for cleanup priority list	11/18/82	1	Creg Darby, Spokesman-Review	
00000153.	Newspaper articles	2 years later water near landfill troubling	11/18/82	1	Creg Darby, Spokesman-Review	
00000154.	Newspaper articles	Contaminated Colbert Landfill gets second nomination to EPA's cleanup list	11/24/82	1	Tri-County Tribune	
00000155.	Newspaper articles	Water woes need curing	3/3/83	1	Spokane Chronicle	
00000156.	Newspaper articles	County officials get ready for second landfill session	3/19/83	1	John Craig, Spokane Chronicle	
00000157.	Newspaper articles	County, company appeal pollution award	4/8/83	1	Ken Sands, Spokane Chronicle	
00000158.	Newspaper articles	Family of seven quitting polluted water area home	4/23/83	1	Tim Hanson, Spokane Chronicle	
00000159.	Newspaper articles	Incident brings tighter county landfill controls	7/12/83	1	Ken Sands, Spokane Chronicle	
00000160.	Newspaper articles	Hazardous waste barrels burst at landfill	7/13/83	1	Ken Sands, Spokesman Review	

<u>Doc#</u>	<u>File</u>	<u>Type/Description</u>	<u>Date</u>	<u># Pages</u>	<u>Author/Organization</u>	<u>Addressee/Organization</u>
00000161.	Newspaper articles	Two more residents sue over polluted wells	7/27/83	1	Richard Wagoner, Spokesman Review	
00000162.	Newspaper articles	Colbert water decision promised within two weeks	7/30/83	1	Ken Sands, Spokesman Review	
00000163.	Newspaper articles	Contracts place Colbert closer to water system	1/4/84	1	Ken Sands, Spokane Chronicle	
00000164.	Newspaper articles	Feasibility of cleaning up Colbert Site to be studied	4/27/85	1	Ken Sands, Spokesman Review	
00000165.	Newspaper articles	Pollution spreading in aquifers	11/8/85	1	Jeff Sher, Spokesman-Review	
00000166.	Newspaper articles	Key Tronic adds firms to lawsuit	5/30/86	1	Kim Crompton, Spokane Daily Chronicle	
00000167.	Newspaper articles	Key Tronic wants others to share dumping blame	5/30/86	1	Kim Crompton, Spokesman-Review	
00000168.	Newspaper articles	Colbert area well ban asked	6/25/86	1	Tri-County Tribune	
00000169.	Newspaper articles	Key Tronic, County liable for pollution	6/28/86	1	Kim Crompton, Spokesman-Review	
00000170.	Newspaper articles	Landfill decision left intact	8/8/86	1	Kim Crompton, Spokesman-Review	
00000171.	Newspaper articles	Key Tronic, county still liable for dumping	8/9/86	1	Kim Crompton, Spokesman-Review	
00000172.	Newspaper articles	Well water woes worth \$42,360	10/21/86	1	Kim Crompton, Spokesman-Review	
00000173.	Newspaper articles	Key Tronic layoffs 'may backfire'	11/22/86	2	Bill Sallquist, Spokesman-Review	
00000174.	Newspaper articles	Colbert cleanup costs could climb to \$17.5 million	1/20/87	1	Jeff Sher, Spokesman-Review	
00000175.	Newspaper articles	Troubles blamed on water district	1/30/87	1	Kim Crompton, Spokesman-Review	
00000176.	Newspaper articles	Developer wins Colbert lawsuit for \$1.8 million	2/11/87	1	Kim Crompton, Spokesman-Review	
00000177.	Newspaper articles	Key Tronic reduces its work force	2/13/87	1	Bill Sallquist, Spokesman-Review	
00000178.	Newspaper articles	Work won't lower wells, experts say	6/1/87	1	Jim Camden, Spokesman-Review	

Doc#	File	Type/Description	Date	# Pages	Author/Organization	Addressee/Organization
00000200.	Lab reports/raw data	Memo re continued sampling of Colbert monitoring wells	11/19/86	1	Carol Kraege, WDOE	Fred Gardner, WDOE
00000201.	Lab reports/raw data	Sampling results	2/27/87	1	Unknown	
00000202.	Lab reports/raw data	Shallow Soil Gas Investigation in the Vicinity of the Colbert Landfill/Field Data	12/86	50	Don Elmeren, Tracer Research Corp.	EPA
00000203.	Lab reports/raw data	Sample results, Lab No. 2895-87	4/8/87	5	ABC Labs, Inc.	Key Tronic Corp.
00000204.	Lab reports/raw data	Colbert Testing Results (Appendix A updated through April, 1987). (Document located at WDOE file.)	1980-2/87		Key Tronic-Spokane County	
00000205.	Lab reports/raw data	April 27, 1987, testing/sampling results, Lab. No. 2981-87	5/10/87	1	Unknown	
00000206.	Lab reports/raw data	Sampling results, Lab No. 30191-87	5/26/87	1	Unknown	
00000207.	Lab reports/raw data	Table 1 re water well records reviewed to develop conceptual model of the geohydrology	No date	7	Unknown	
00000208.	Correspondence	Letter re proposed sampling plan	2/4/81		James L. Malm, WDOE	Carolyn B. Wilson, EPA
00000209.	Correspondence	Letter regarding WA future solid waste grant #266310104	5/14/81	1	Peter R. Haskins, WDOE	William R. Dobratz, Spokane County Utilities Dept.
00000210.	Correspondence	Letter regarding postponing of drilling at Mica Landfill site	3/30/82	2	George E. Maddox, George E. Maddox & Assocs.	Damon Tasm, Spokane County Utilities Dept.
00000211.	Correspondence	Letter re potential health impact of volatile organics	10/23/85	1	Carl Sagerser, Dept. of Social & Health Services	Carol Kraege, WDOE
00000212.	Correspondence	Letter re potential health impact of volatile organics	10/14/85		Carol Kraege, WDOE	Bill Lichte, Dept. of Social & Health Services
00000213.	Correspondence	Letter re announcement of site manager and formation of action committee	3/4/87	2	Lewis G. Kinkle, Key tronic	Fred Gardner, WDOE
00000214.	Correspondence	Letter re extension of public comment period with attached news article	5/29/87	2	A. J. "Bud" Pardini, U.S. Senate	Robbie Russell, EPA
00000215.	Correspondence	Letter regarding Superfund proposal cleanup of Colbert Landfill	6/17/87	2	(b) (6), resident	Fred Gardner, WDOE

<u>Doc#</u>	<u>File</u>	<u>Type/Description</u>	<u>Date</u>	<u># Pages</u>	<u>Author/Organization</u>	<u>Addressee/Organization</u>
00000179.	Newspaper articles	More comment time wanted on Colbert plan	5/24/87	1	Jeff Sher, Spokesman-Review Spokane Chronicle	
00000182.	Newspaper articles	Work won't lower wells, experts say	5/29/87	2	Jim Camden, Spokesman-Review	
00000183.	Newspaper articles	Colbert cleanup plan has hasty approach	5/31/87	1	Spokesman-Review	
00000185.	Newspaper articles	The issue is fairness; Colbert cleanup	6/7/87	2	Key Tronic, The Spokesman-Review Spokane Chronicle	
00000186.	Newspaper articles	Around the States - Washington	6/15/87	1	Air/water Pollution Report	
00000188.	Newspaper articles	Colbert residents file suits	3/13/86	1	Kim Crompton, Spokane Daily Chronicle	
00000189.	Newspaper articles	County to run landfill cleanup	No date	1	Jeff Sher, Spokesman-Review	
00000190.	Lab reports/raw data	Memo/attachments re organic analysis of aqueous samples/water well records/ water quality reports	1/14/80	13	Alexandra Smith, EPA	Gary O'Neal, EPA
00000191.	Lab reports/raw data	Table re water quality at selected wells near Colbert Landfill	2/10-11/81	1	EPA	
00000192.	Lab reports/raw data	Memo w/attachments re well water samplings/maps	4/24/81	7	Ben Eusebio, EPA	Chuck Findley, EPA
00000193.	Lab reports/raw data	Letter re Colbert Landfill data analysis	6/19/81	5	James Malm, WDOE	Carolyn Wilson, EPA
00000194.	Lab reports/raw data	Letter w/attachments re water quality tests at Colbert	8/31/81	4	William Dobratz, Spokane County Utilities	Joanne Fujita Asaba, EPA
00000195.	Lab reports/raw data	Well water sampling results	1/28/82	5	Unknown	
00000196.	Lab reports/raw data	Field sample data sheet	8/4/82	1	Tim Cook, George Maddock & Assocs.	R. R. Jones
00000197.	Lab reports/raw data	Metal data-AA-11GA 2100 (Water), Santora well	8/4/82	14	EPA	Roy Jones
00000198.	Lab reports/raw data	Base/neutral compounds	3/25/82	8	Jim Blasethick, EPA	
00000199.	Lab reports/raw data	Inspection report and memo with sample results	6/7/86	8	Schlender, WDOE	Carol Kraege, Fred Gardner, WDOE

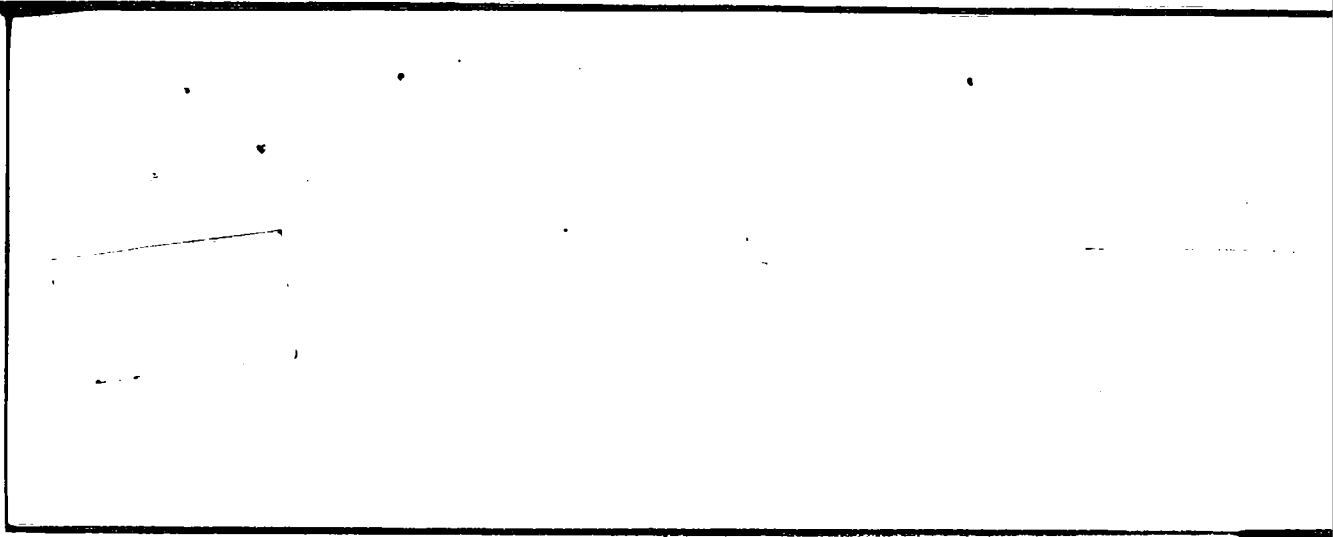


EXHIBIT
"B"

Jan. 23. 1992

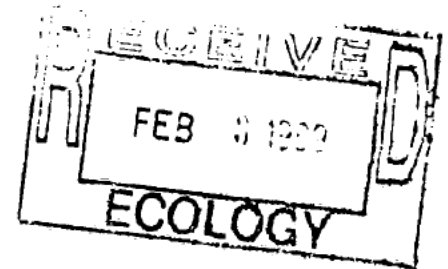
(b) (6)

Chattaroy, Wa. 99003

Washington State Dept. of Ecology
Eastern Regional Office
Rt. 4501 Suite 100 Monroe St.
Spokane, Washington

Mr. Mike Blum
Washington State Dept. of Ecology
Mail Stop EV-11
Olympia, Washington 98501

Mr. Jim Nicoll
Land and Natural Resources Division
U.S. Department of Justice
10 th and Constitution Avenue
Washington, D. C. 20530



Dear Sir:

I understand that you are going to pump the water from the Colbert Land Fill Pump, filter it purify it and dump it into the Little Spokane River. If the water is going to be purified enough to be put into the river, it should be clean enough to irrigate land and crops.

(b) (6)

(b) (6) and it would be helping somebody out instead of just pumping it in the river.

Also are they going to clean up the old County Dump just South of the Colbert Dump, it is just across the road on the South West corner of Yale and Big Meadows Road.

I would like to present my case at the hearing, let me know when, where and time and place of meeting.

Thank you kindly.

Yours truly

(b) (6)

(b) (6)

EXHIBIT
"C"

Feb. 11. 1989

(b) (6)

Chattaroy, Wash.
99003

Washington State Dept. of Ecology
Eastern Regional Office
P. 4601 Monroe St. Suite 100
Spokane, Washington

Mr. Mike Blum
Washington State Dept. of Ecology
Mail Stop PV-11
Olympia, Washington 98504

Mr. Jim Misoll
Land and Natural Resources Division
U.S. Department of Justice
10 th and Constitution Avenue
Washington, D. C. 20530

Dear Sir:

In reference to the water clean up and recycling project in the Colbert Landfill Area:
Make the project to be a good use, by turning the recycled water into irrigation in the area and charging a small fee to the users. In turn this will help pay for the cost of installations etc. Once the project is established it could be of use for an indefinite period of time to come and can be a great boost and value to the area farmers. I for one would be most interested in purchasing the water, not knowing of the gal. per Min. Other area farmers and people may be interested also.
You will have the money invested in wells drilled and pumps in place to pump the water, which is needed badly.

Yours truly

(b) (6)

DEPT. OF JUSTICE

LANDS DIV.

Feb 14, 1989

ENFORCEMENT Record 41

EXHIBIT
"D"

1-30-1989

Jim Nicoll

Land and Natural Resources Division
U.S. Department of Justice
10TH and Constitution ave.
Washington D.C. 20530

Dear Sir,

(b) (6)

and neighbors are extremely concerned with the proposed "air stripping" method of removing the contaminants from the aquifer polluted by the Colbert Landfill. We see the "air stripping" method as simply a transfer of the contaminants from one environment to another, i.e. water to air we breathe. With several stripping towers, three in the initial pilot phase and a much larger system in the full scale phase, these airborne contaminants are free to the air and breezes.

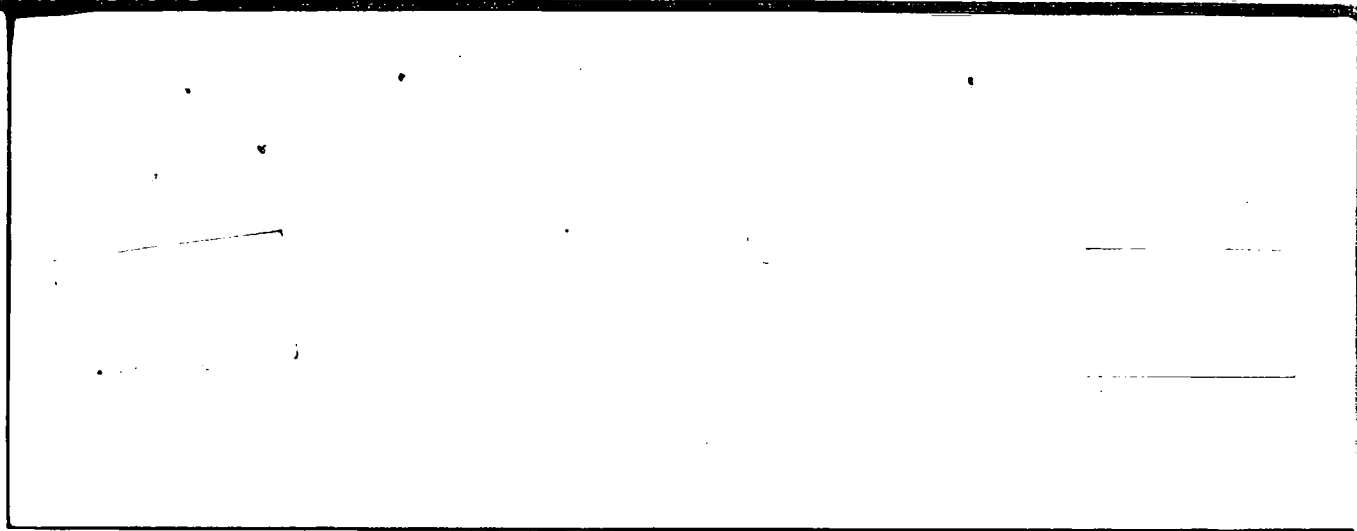
Now the citizens living in close proximity to these towers will be breathing known cancer causing agents. What compensation plans are there for these innocent victims with the

unmeasurably increased risk of Cancer?
to those of child bearing years and to
the yet unborn? Will food stuffs
grown in the area be contaminated?
Will the entire plant to man: plant
to animal to man food chain result in
the oral ingestion of these cancer
causing agents? Will those near, or
far, from the stripping towers be at
double risk, i.e. ingestion and respiration?
Could future lawsuits in this area
make the projected clean-up costs at this
time seem like small potatoes? At
what cost to our government and
ultimately the taxpayers in this one
instance alone?

the "air stripping" method is only
transferring the "Problem". It is in all
likelihood creating a far greater
Problem.

(b) (6)

and neighbors are against
the "air stripping" approach. If
implemented, there need to be scrubbers
and filters on the towers which will



Contain the Contaminating agents and allow their collection. there will need to be air Quality monitoring stations established. Frequent publication of air Quality data and mailed to all near residences. the air Quality monitoring stations need to be established and operated by a disinterested party from all involved, including all levels of the EPA.

Thank you for the opportunity to express our concerns. (b) (6)

(b) (6)

from the affected landfill.

Sincerely

(b) (6)

Colbert, wa. 99005

EXHIBIT
"E"

Colbert, Wash.
Feb 9-1989

Jim Nicoll
Land & Natural Resources Div.
Washington, D.C. 20530 -

Dear Sir -

Our biggest concern is the
drawing down of the wells on
the upper Aquifer. The
upper aquifer is only 8 to 10
ft deep and around the edges
is only about 4 ft.

Then the blowing the
contaminants in the air. I'm
concerned about breathing the
stuff that will pollute it.
I've written the Health Dept. concerning
this, but no answer. (b) (6)

(b) (6)

and have to be careful

Thank you

The Pro.

(b) (6)

COLBERT, WASH. 99005

EXHIBIT
"F"

W. Collier

(b) (6)

CHATTAROY, WASHINGTON 99003
FEBRUARY 9, 1989

JIM NICOLL
LAND AND NATURAL RESOURCES DIVISION
U.S. DEPARTMENT OF JUSTICE
10TH AND CONSTITUTION AVENUE
WASHINGTON, D.C. 20530

REFERENCE:

U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON
CONSENT DECREE C-89-033-RJM
(PERTAINING TO COLBERT LANDFILL,
SPOKANE COUNTY, WASHINGTON)

DEAR MR. NICOLL:

(b) (6)

(CHATTAROY)

LOCATED APPROXIMATELY TWO MILES NORTH OF THE COLBERT LANDFILL. ONE OF OUR PRINCIPLE CONCERNS IN CONNECTION WITH CLEANUP OF THE LANDFILL SITE IS WITH THE CONTAMINATED AIR WHICH WILL BE GENERATED AS A RESULT OF THE WATER TREATMENT. THE PROCESS OF "AIR STRIPPING", WHICH IS NOW PLANNED TO BE USED, ESSENTIALLY TRANSFERS THE CONTAMINANTS FROM THE WATER TO THE AMBIENT AIR. FROM OUR OWN EXPERIENCE, AS WELL AS INFORMATION FROM THE U.S. WEATHER SERVICE, WE KNOW THAT THE PREVAILING WINDS IN THE SUMMER SEASON ARE FROM THE SOUTH AND SOUTHWEST. THEREFORE, A GOOD PORTION OF OUR AREA IS LOCATED DIRECTLY DOWN-WIND FROM THE SITE. WE UNDERSTAND THAT THE AIR QUALITY AT THE SITE WILL BE MONITORED, BUT WE REALIZE THAT BECAUSE OF HUMAN ERROR, FAULTY MONITORING EQUIPMENT, POSSIBLE NEGLECT, ETC., THAT THE AIR IN OUR COMMUNITY COULD BE CONTAMINATED AT TIMES.

I SUBMIT THE FOLLOWING COMMENTS IN REGARD TO REFERENCED CONSENT DECREE:

1. ON PAGE 35 OF APPENDIX "D" UNDER "MONITORING AND DOCUMENTATION", THE WORDING PROVIDES FOR DOCUMENTATION FOR GROUND WATER MONITORING BUT NOT FOR AIR MONITORING. I ASK WHY? THE PEOPLE DO HAVE A CHOICE TO USE OTHER THAN CONTAMINATED WATER, BUT WE HAVE NO CHOICE OF THE AIR WE BREATHE. I BELIEVE THIS TO BE A SERIOUS OMISSION IN THE WORDING OF THE DOCUMENT.
2. IT APPEARS THAT SPOKANE COUNTY WILL BE DOING THE MONITORING OF THE AIR PRODUCED BY THE "AIR STRIPPING" PROCESS. SINCE THE COUNTY IS RESPONSIBLE FOR BOTH THE OPERATION AND THE MONITORING, ISN'T THIS SOMEWHAT LIKE HAVING THE FOX GUARD THE CHICKEN HOUSE? I PROPOSE THAT A MEMBER OF THE COMMUNITY BE TRAINED AND AUTHORIZED TO SPOT CHECK THE AIR MONITORING FROM TIME TO TIME.

CC MIKE BLUM, WASHINGTON DOE, OLYMPIA
NEIL THOMPSON, EPA, SEATTLE

RESPECTFULLY,
(b) (6)

DEPT. OF JUSTICE
LANDS DIV.

FEB 14 1989

ENFORCEMENT Record 48

EXHIBIT
"G"

February 10, 1989

Mr. Jim Nicoll
Land and Resources Division
U.S. Department of Justice
10th & Constitution Avenue
Washington, D.C. 20530

RE: Colbert Landfill Superfund Site Consent Decree - 30 day Comment Period

Dear Mr. Nicoll,

Please accept this letter as our reply to the Comment Period for the above Consent Decree lodged with the Court in the State of Washington, County of Spokane, on January 9, 1989, under file No. C-89-033-RJM.

We are hereby requesting that the Court review our letter in its entirety even though it will be included in Ecology's general Responsiveness Summary. We feel that our situation is unique and different from other families in the area. Our comments are as follows:

1. Appendix "B" - Scope of Work, Section VIII - Alternative Water Supply - Page VIII-2, Paragraph 1 - WATER RIGHTS

We would like to take exception to the wording "defined by a valid water right, filed with the State of Washington prior to entering of this Consent Decree."

On November 7, 1985, we submitted to Ecology an application to appropriate ground water and were issued number G3-28077 and a Priority Date of November 7, 1985. Since that time we have followed all rules and regulations required by Ecology in order that we eventually will be granted a final Water Right document. At the present time we are in a one-year extension time frame in order that we may make some construction changes, one of which includes an additional point of withdrawal.

It was stated at the Public Meeting on February 8, 1989, that the time frame for completion of Phase II is 2 to 4 years. Therefore, we feel that the more appropriate date to look at is not the date of filing of the final document for the Water Right, but the Priority Date which dates back to the date of application. Since we are not a party to the action (Consent Decree) we assume that we retain all of our legal rights to enforce or safeguard our Water Rights.

2. Appendix "B", Page VIII-1 Paragraph 1 - FUTURE WELLS

We would like to take exception to the wording "any domestic water supply well in use prior to the date of entry of this Consent Decree."

With regard to our well currently being developed under our Water Right Permit, it could very conceivably be used for a domestic well in the future. Our Permit is for domestic, irrigation, and stock water.

Property owners in areas not within a reasonable distance to Whitworth Water District or any other water district water lines must drill wells.

They should be entitled to the assurance of future protection should their wells become contaminated at levels mentioned in the Consent Decree at a later date. We do not advocate anyone drilling in the known areas of contamination, but if alternate water lines are not made available to them, they have no other alternative but to drill a well.

One alternative to a hookup by the County to an alternative water supply is to drill a new well. This would not be a well "in use prior to, etc." Will the County be responsible for contamination in this well at a future date? Or for adverse impacts from the Remedial Action? If so, there should be the same responsibility directed to any future wells in the area.

3. We understand and appreciate the desire to have the Consent Decree entered into the Court before March 1, 1989, but we feel that the time allowed after the Public Meeting in which the document was reviewed for us by Ecology and EPA, and the end of the Comment Period was not adequate.

4. We are very pleased to see that the existing Well Monitoring Program enacted by the County will continue. A great deal of effort was put forth by the citizens to establish this program and it is rewarding to see that the program will continue with citizen input.

Thank you for this opportunity to respond to this Consent Decree. While we are not a party to it, its ramifications will affect us for the rest of our lives.

Sincerely,

(b) (6)

Colbert, WA, 99005

(b) (6)

Members - Colbert Landfill Contaminate
Area Committee
Colbert Cleanup Committee (Grace)
Current Well Monitoring Committee (Grace)

cc: Mike Blum, Dept. of Ecology

EXHIBIT
"H"

D. ROGER REED
JOHN P. GIESA
JAMES A. MCDEVITT
THOMAS A. WOLF
MICHAEL J. CASEY
TIMOTHY J. GIESA*
MARK E. LEHINGER
RANDAL S. THIEL

*ADMITTED WASHINGTON & IDAHO

REED & GIESA, P.S.

ATTORNEYS AT LAW
410 GREAT NORTHWEST BUILDING
222 NORTH WALL STREET
SPOKANE, WASHINGTON 99201
TELEPHONE (509) 838-8341
TELECOPIER (509) 838-8341

IDAHO OFFICE:
HARBOR CENTER SUITE 100
1000 WEST HUBBARD
P.O. BOX 847
COEUR D'ALENE, IDAHO 83814
(208) 667-0683

IN RE

COLBERT LANDFILL SITE

STATE OF WASHINGTON,
DEPARTMENT OF ECOLOGY,
and the UNITED STATES of
AMERICA on behalf of the
UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY,

Plaintiff,

v.
COUNTY OF SPOKANE and
KEY TRONIC CORPORATION,

Defendants.

COMMENTS

ON

CONSENT DECREE

TO: Jim Nicoll
Land and Natural Resources Division
U. S. Department of Justice
10th and Constitution Avenue
Washington, D.C. 20530; and

TO: Mike Blum
Department of Ecology
Woodland Square Building
M.S. PV-11
Olympia, Washington 98504; and

TO: E.P.A. Region 10
Superfund Group - HW - 113
1200-Sixth Avenue
Seattle, Washington 98101

COMES NOW the Whitworth Water District No. 2, a
municipal corporation, and submits its comments to the proposed
Consent Decree as follows:

COMMENTS ON
CONSENT DECREE 1

1. Identity of Party Submitting Comments.

Whitworth Water District No. 2 (the "District") is a municipal corporation, organized and operating pursuant to Title 57 R.C.W., in Spokane County, State of Washington.

2. Address of Party Submitting Comments and Representative of Party.

Whitworth Water District No. 2
N. 10828 Waikiki Road
Spokane, Washington 99218
Attn; Susan Eldore, Administrator
509/466-0550

James A. McDevitt
Attorney at Law
Reed & Giesa, P.S.
North 222 Wall, Suite #410
Spokane, Washington 99201
509/838-8341

3. Subject of Comments.

Comments contained herein are submitted with respect to that certain Consent Decree lodged in United States District Court, Eastern District of Washington, on January 9, 1989, and titled as follows:

The State of Washington, Department of Ecology and the United States of America on behalf of the U.S. Environmental Protection Agency, Plaintiff, v. County of Spokane and Key Tronic Corporation, Defendants, U.S.D.C., E.D.Wash No. C-89-033-RJM.

These comments are submitted pursuant to 28 CFR § 50.7, §122 of CERCLA, 42 U.S.C. § 9622, RCW 70.105B.070(5), and WAC 173-340-040(7).

4. General Background.

The District is a municipal water system situate in Spokane County, Washington. The District currently provides municipal water service to over 6000 customers in the North Spokane and Colbert area. Most, if not all, of the area impacted by the Colbert Landfill is within the current political boundaries of the District, as well as within the District's existing and future service areas. The District is governed by Title 57 R.C.W., and its systems and operations must comply with all federal, state and local requirements, as well as its own rules and regulations which govern a public water system.

5. General Objection.

The proposed Consent Decree, as written, does not implement the record of decision, nor does it satisfactorily implement one of its principal objectives - - the satisfactory provision of an alternative supply of domestic water.

(a) Record of Decision.

The Record of Decision (ROD) entered in this matter clearly stated that a major element of the remedy sought in this cleanup was to :

"provide an alternative water supply system to any residents deprived of their domestic supply due to demonstrated contamination from the landfill or due to the action of the extraction or interception systems." (ROD, P. 2).

The proposed Consent Decree does not satisfactorily implement this remedy for the specific reason set forth herein.

(b) Proposed Consent Decree.

The proposed Consent Decree (CD) clearly sets forth as the principal component of the Remedial Action (RA) the:

"1. Provision of an alternate drinking water supply to each residence whose domestic water supply is affected by Constituents of Concern or by the Remedial Action.

. . . " (CD, P. 16)

The Scope of Work (CD, App. B) does not satisfactorily implement this desired objective, is deficient in many respects and leaves too many unresolved issues and questions, all as will be noted in the specific comments noted herein.

For the reasons noted herein the District submits that the portion of the Consent Decree and attached Scope of Work which relates to the provision of an Alternate Water Supply is inconsistent with the Record of Decision in this matter, contrary to law and counter to sound water utility planning principles. For these reasons the remedy as proposed is inappropriate for the area, improper under the circumstances and inadequate with respect to the provision of public water services to the area affected.

6. Specific Comments.

(a) Alternative Water Supply. The proposed Consent Decree is inconsistent with the Record of Decision.

The Record of Decision provided that:

(i) Residents deprived of their domestic supply of water by virtue of demonstrated contamination or due to the action of the extraction systems will be connected to an adequate supply of safe water for domestic use (ROD, P.2 and 3);

(ii) Provider of such an adequate supply of water shall be the Colbert Extension of the Whitworth Water District system (ROD, P. 3);

(iii) By virtue of the increased requirements for domestic water, the present system (Colbert Extension) may require upgrading in order to provide an adequate supply of water (ROD, P. 3); and

(iv) The improvements to the Colbert Extension shall be designed (and built) to meet State Public Water System Standards (ROD, P. 3) to assure an adequate supply of water to all residents of the area who may require an alternative water supply.

These same laudable goals (in the form of a remedy) are not echoed in the proposed Consent Decree, and in fact, are substantially different to the point of confusion and potential degradation of the domestic supply of water to be provided.

With respect to the provision of an Alternate Water Supply, the proposed Consent Decree provides:

(i) If contaminants are found and confirmed in any well existing at the time of entry of the Consent Decree, the County will provide an alternate drinking water source, which may be at the County's discretion; (a) bottled water (interim), (b) connection to the Whitworth system, or (c) connection to an approved Class IV System (CD, App B, VIII-1);

(ii) The County is only responsible for the provision of a drinking water supply in an amount equal to the lesser of the Department of Social and Health Services (DSHS) Standards or annual average well production (CD, App B, VIII-1);

(iii) If the operation of the extraction system impacts well yields for wells in use prior to entry of the Consent Decree, and water supplies are below the lesser of volume by water right or average daily well capacity, one of the options available to the County is to provide an alternative water supply

(bottled water, connection to Whitworth System, or connection to an approved Class IV System) (CD. App. B, VIII-2);

(iv) The County is not responsible for any costs in excess of these necessary to provide the lesser amount of drinking water as set forth above (CD, App. B, VIII-2); and

(v) The County is not responsible for any costs of fire flow, storage requirements or over-sizing in excess of the provision of minimal drinking water requirements.

The differences between the remedy noted in the Record of Decision and that to be implemented by the Consent Decree are readily apparent.

(b) Designation of Source of Water Supply. Within the service area boundaries of the District the County may not initiate, designate or approve any other public water systems.

As one of its options the County seems to have given itself the authority to provide residents with an alternate supply of domestic water by means of an approved Class IV system.

The entire area currently effected by the Colbert Landfill, with minor exceptions, is within the current boundaries of Whitworth Water District's Critical Water Supply Service Area. (CWSSA).

The Public Water Supply Coordination Act of 1977 (The Act), Ch. 70.116 RCW, was enacted to safeguard our state's finite supply of potable water used for domestic, commercial, and industrial use. Due to the limited supplies of readily available potable water, the legislature felt it necessary to provide a method whereby potable water would be developed and used with a minimum of loss or waste. In furtherance of this goal DSHS was tasked with the responsibility of coordinating and controlling the planning, growth and proliferation of public water supply systems. RCW 70.116.010.

A "public water system" is any water system which provides water to more than a single family residence (unless existent prior to September 21, 1977 and serving less than ten residences). RCW 70.116.030 (3). A Class IV water system is a public water system. WAC 248-54-015(2)(d) & (19).

Consistent with the current Coordinated Water System Plan (CWSP) most, if not all, of the wells affected in the Colbert Landfill area lie within the external boundaries of the District's Critical Water Supply Service Area (CWSSA). R.C.W. 70.116.030 (1) & (2). In short, the area in question has been designated as within either the existing or designated future service area of the District.

With respect to the proliferation of other public water systems, Class IV or otherwise, within the current or future service areas of the District, RCW 70.116.040(1) clearly mandates:

"After establishment of the external boundaries of the critical water supply service area, no new public water system, may be approved within the boundary area unless an existing water purveyor is unable to provide service." (Emphasis supplied).

Thus, the County's plan to provide an alternative source of water in the affected area by means of an approved Class IV System is contrary to Ch. 70.116 RCW. There is no indication that the existing water purveyor (The District) is unable to provide service. It is unlikely that the District (or DSHS) will approve of the proliferation of one or many small purveyors within the existing CWSSA of the District. Finally, it is contrary to sound water utility planning, as well as the Public Water System Coordination Act, to allow or encourage the proliferation and growth of small and/or inadequate public water supply systems.

The District is not alone with respect to such concerns. In that regard, find attached as Exhibit "A" a letter from Dan Sander, DSHS to Mike Blum, DOE, wherein Mr. Sander, in his capacity as Section Head, Eastern Water Operations Section, voices the same concerns. It should be noted that the final Scope of Work on this subject has not materially changed from the draft Scope of Work to which Mr. Sanders addresses his comments.

(c) Provision of An Adequate Supply of Water. The Consent Decree does not currently provide for an adequate supply of potable water for domestic use.

The Record of Decision mandated the provision of an "adequate supply" of potable water for in-home domestic use (ROD, P. 3). The proposed Consent Decree provides for what the District would term "a trickle effect," i.e., the lesser of DSHS standards or the individual's current well production, whatever that may be. (CD, App. B, P. VIII-1).

The District is not practically or legally able to provide "a trickle" of water to its customers. As a municipal public water purveyor the District is obligated to provide water in accordance with federal, state, county and district standards as related to source, treatment, storage, capacity, quality, quantity and fire flow. The Record of Decision mandated compliance with Ch. 248-52 WAC, Public Water Supplies. In that regard the District must construct, operate, and maintain its public water system to the highest standards required by DSHS and

COMMENTS ON
CONSENT DECREE 6

consistent with the public health, safety and welfare.

By definition the District is a Class I System and must comply with Class I standards. The District cannot construct, own, or maintain a Class IV System. There are many substantial differences too numerous to mention herein. By way of example, however, the minimum distribution main line size in a Class I System is six (6) inches and distribution lines smaller than two (2) inches are unacceptable. In Class IV Systems, however, main lines and distribution lines may be much smaller (WAC 248-54-135(4)).

Again, these same concerns with respect to compliance with state public water supply and fire flow regulations are shared by DSHS (see Exhibit "A").

It appears that the County, by virtue of the proposed Scope of Work, is satisfied with the provision of a "trickle" of water. The District, however, is not in the business of supplying a public water source which is in not full compliance with all applicable statutes and regulations.

(d) Division of Responsibility For costs of Water Services. The proposed Consent Decree is totally inadequate with respect to any division of responsibility between Alternate Water Supply costs to be borne by the County and those to be borne by the District or its customers.

The Record of Decision mandated the provision of an "adequate supply" of potable water to residents whose wells show demonstrated contamination or were impacted by operation of the extraction systems. (ROD, P. 3).

During the February 8, 1989, public meeting held regarding the Consent Decree, Mr. Blum from the Department of Ecology continually referred to the provision of an Alternate Water Supply as one which would be provided "free of charge" or as a "fee hookup to a clean water supply." He repeatedly stated that residents who qualified would be "offered a free hookup."

Either Mr. Blum is unaware of the language and effect of the Scope of Work as it relates to provision of an Alternate Water Supply, or he is not familiar with the legal requirements placed upon a public water system such as the District.

In the Scope of Work the County disclaims responsibility for costs in excess of those to provide residents with a "trickle" of water. Specifically, the County disclaims responsibility for any costs relative to fire flow, storage requirements, or oversizing. No rationale, plan or formula is offered as a means of either justifying such a position or delineating responsibility for such costs even if the District

were willing to accept such a plan. When queried on this, Mr. Blum's response was that the division of responsibility for costs would "just have to be worked out" in the future between the District and the County.

The District submits that it is rather naive (to the point of irresponsibility) to leave such a major financial factor open at this time and assume that the details of such a major consideration in the provision of an Alternate Water Supply will be "worked out in the future."

As stated above, the District is obligated to provide its users with a public water system which complies with all applicable codes and regulations, including fire flow, storage, transmission, etc. To advise residents that they will be provided with "a free hookup to a clean water supply" is, at minimum, totally misleading. It ignores the reality that a source of public water must be provided which is in full compliance with the law and which will cost more than the "trickle" proposed by the County. What is proposed as "free of charge" by DOE will be expensive to someone and the District submits that neither it, nor its customers, will pay for a system necessitated by a problem which was not its making.

(e) Lack of Participation in the Consent Decree Process. The District, in spite of numerous requests, has been excluded from any participation in the Consent Decree negotiations and design of the Scope of Work.

It is not surprising that the proposed Consent Decree and its attached Scope of Work are defective in those respects set forth above. In that the provision of an Alternate Water Supply was a material element of the Remedial Action, one would assume that the District, as principal provider of such Alternate Water Supply, would be, at least minimally, involved in some part of the drafting of the Scope of Work, especially with respect to services which it would ultimately be called upon to provide. Such, however, was hardly the case.

Since early in 1986 the District, by means of multiple letters and personal contacts, requested the opportunity for at least minimal involvement in the drafting of the Scope of Work as well as the opportunity to make the District's position and requirements known as related to its role as potential provider of the Alternate Water Supply. The District's many requests for involvement in the process continued through 1987 and 1988. Correspondence too numerous to affix hereto was directed at the Department of Ecology, the Environmental Protection Agency, and the County. The result was complete frustration.

In one response from the DOE (copy attached as Exhibit "B") Mr. Blum apologizes for DOE's delayed response and attempts

COMMENTS ON
CONSENT DECREE 8

to advise the District of the status of negotiations. It is noteworthy that in his letter Mr. Blum advises the District that:

"In summary, no decisions will be made during the Consent Decree negotiations which would bind the Whitworth Water District to do work without reimbursement." (Exhibit "B", P. 2).

The current conflict between the proposed Scope of Work, the DOE's assertion of "free hookup to clean water supply", and the District's responsibility to design, construct and maintain a public water system in full compliance with the law does not support Mr. Blum's statement.

In short, the District has not been afforded the opportunity to participate in the process of drafting the proposed Scope of Work. The conflicts, problems, and shortfalls noted herein are symptomatic of the lack of valuable input from the District.

7. Conclusion.

For the reasons set forth above, the District submits that the proposed Consent Decree and accompanying Scope of Work is wholly inadequate with respect to provision of the Alternate Water Supply.

The remedy proposed is inconsistent with the Record of Decision. The provisions of the Scope of Work as relates to the provision of an Alternate Water Supply are inappropriate for the area, legally improper and wholly inadequate. Thus, such facts and circumstances having been properly presented, it is appropriate that the Department of Justice withhold approval of the Consent Decree until these defects are remedied and that the Court withhold approval of the Consent Decree as currently proposed.

Respectfully Submitted
this 13 day of February, 1989

Reed & Giesa, P.S.

By: 

JAMES A. MCDEVITT
Attorney for Whitworth Water
District No. 2

Approved for Submittal
Whitworth Water District No. 2

By: 
R. Edward MacDonald
Chairman, Board of Commissioners

COMMENTS ON
CONSENT DECREE 10

JULE M. SUGARMAN
Secretary



STATE OF WASHINGTON

DEPARTMENT OF SOCIAL AND HEALTH SERVICES

West 924 Sinto Avenue, L32-4 • Spokane, Washington 99201-2595 • (509) 456-3115

August 24, 1988

Mike Blum, Project Manager
Hazardous Waste Cleanup Program
Department of Ecology
PV-11
Olympia, WA 98504-8711

RE: Colbert Landfill

Dear Mike,

As we discussed on the telephone recently, this office has had the opportunity to review the June 8, 1988 draft Scope of Work for the remedial action to address ground water contamination emanating from the Colbert Landfill in Spokane County.

We have concerns regarding Section VIII, Alternative Water Supply. This section, as written, does not encompass a number of regulations administered by this department. Specifically, WAC 248-56 (Water (System Coordination Act--Procedural Regulations) and WAC 248 57 Water System Coordination Act -- Fire Flow Regulations) have provisions that apply to any new or expanding public water supply in the Colbert Landfill area. In addition, Spokane County has adopted minimum fire flow standards and water supply standards as part of their Uniform Fire Code.

The Coordinated Water System Plan for Spokane County is currently being updated, and recommendations are being made for more stringent fire flow requirements. The provision of adequate fire flows is becoming an increasingly more important aspect of a public water system regardless of size in light of recent serious fires in "rural residential" areas, including a fire near the Colbert landfill last year.

I have enclosed copies of the above referenced WAC's and Uniform Fire Code and some pertinent information from the Coordinated Water System Plan update process. Please feel free to contact Tom Wells of this office or myself if you have any questions or if we can of of any assistance.

Sincerely,

A handwritten signature in cursive script that reads "Dan Sander".

Dan Sander, Section Head
Eastern Water Operations Section

Bcc: Jim McDewitt

ANDREA BEATTY RINKER
Director



STATE OF WASHINGTON

DEPARTMENT OF ECOLOGY

Mail Stop PV-11 • Olympia, Washington 98504-8711 • (206) 459-6000

April 8, 1988

Mr. Leo Hutchins, General Manager
Whitworth Water District No. 2
N. 10828 Waikiki
Spokane, WA 99218

Re: Colbert Landfill Cleanup and Alternate Water Supply

Dear Mr. Hutchins:

I am writing in response to the previous letters you sent to me. First, I would like to apologize for the delay in responding to your letters. Next, I would like to outline what has happened so far in the negotiations with the Potentially Responsible Parties (PRP's) and why you have not been invited and to those meetings. I will also try to explain how I think things will progress from here.

Our negotiation sessions are divided into two categories; legal and technical. The legal discussions center around development of the consent decree and the legal language to be included. Those discussions have been ongoing for the past three months and may continue until May 12, 1988. The most important issues (in my mind) center around the components of the cleanup itself. Those technical meetings, which I sent you a schedule of many weeks ago, have not been occurring as planned. We have met with the PRP's to discuss the past work done by Ecology (Remedial Investigation and Feasibility Study) as outlined on the schedule. All the other topics had been put on hold until the end of March. The PRP's, during the past month or more, have been writing a draft scope of work. Ecology and EPA have just recently received that draft for our review and comments.

During the interval while the Scope of Work was being drafted, I assumed the PRP's were going to meet with Whitworth W.D. and the Spokane County Air Pollution Control Authority (SCAPCA). My assumption was wrong. They did meet with SCAPCA, but they obviously have not met with you.

The requirements for cleanup of the Colbert Landfill site are defined in the Record of Decision (ROD) document. You have a copy of that document. The ROD says that an alternative water supply has to be provided to those residents whose water shows demonstrated contamination due to the landfill and/or whose water supply is reduced due to the groundwater interception and extraction wells. How that alternate water supply is provided is up to the party(s) completing the remedial action. There are no requirements in the current draft consent decree which will bind the Whitworth Water District to

Mr. Leo Hutchins
Page 2
April 8, 1988

complete any work, solely at the District's expense, without being compensated by the party(s) doing the cleanup.

The Governments are still negotiating with the PRP's about what level of contamination in a well would trigger a hookup. Will the criteria for hookup remain at the Maximum Contaminant Levels (MCL's) or will a new negotiated level be set? This issue has not been resolved yet.

My recommendation is that you should contact the current PRP's (Spokane County, Key Tronic Corp., and Fairchild Airforce Base) and set up a meeting to discuss what their plans are to fulfill the requirement of the Colbert ROD. For example, do the PRP's have some other plan to provide alternate water supplies other than connection to the Whitworth system? What do they project as the need for future hookups? Will expansion of the Whitworth system be needed to accommodate projected hookups due to the cleanup efforts? How does the District's current agreement with Spokane County and Key Tronic Corp., fit into the picture? I would attend this meeting if you feel it would be helpful.

In summary, no decisions will be made during the consent decree negotiations which would bind the Whitworth Water District to do work without reimbursement. After consent decree negotiations are complete and before a federal judge OK's the document (which will include the Scope of Work), those documents will be made available for public review and comment. At that time, if you feel the District will be adversely impacted by the planned remedial action (cleanup), you will be able to lodge your comments/complaints with the court. Again, I would also like to apologize for not responding to your past letters.

If you would like to discuss this matter further, please give me a call at (206) 438-3043 or write me at the address above. If you have legal questions, you can call Jeff Meyers, who is with the State Attorney General's Office representing Ecology in these negotiations. His telephone number is (206) 459-6184.

Sincerely,

Mike Blum

Mike Blum, Site Manager
Landfill Site Cleanup Section
Hazardous Waste Cleanup Operations

MB:sjm

cc: Jeff Meyers, AG's Office
Neil Thompson, EPA
Dennis Scott, Spokane County
Bruce Foreman, Key Tronic Corp.
Colonel Richard Wolf, Fairchild AFB

EXHIBIT
"I"

1 UNITED STATES DISTRICT COURT FOR
2 EASTERN DISTRICT OF WASHINGTON

3 STATE OF WASHINGTON,)
4 DEPARTMENT OF ECOLOGY and)
5 THE UNITED STATES on behalf)
6 of the ENVIRONMENTAL)
7 PROTECTION AGENCY,)

8 Plaintiffs,)

9 v.)

10 COUNTY OF SPOKANE and)
11 KEYTRONIC CORPORATION,)

12 Defendants.)

No. C-89-033-RJM

DECLARATION OF
JEFFREY S. MYERS

13 I, JEFFREY S. MYERS, under penalty of perjury and upon
14 oath, do hereby state and declare as follows:

15 1. That I am an assistant attorney general representing
16 the State of Washington in the above-entitled matter and am
17 competent to testify to the matters expressed herein.

18 2. The State of Washington has agreed to a Consent Decree,
19 lodged with this Court on January 9, 1989, to provide for
20 remedial action necessary to protect human health and the
21 environment at the Colbert Landfill site. This Decree has been
22 agreed upon under CERCLA, 42 U.S.C. § 9601 et. seq. and ch.
23 70.105B RCW.

24 3. In November of 1987, the voters of the State of
25 Washington chose to replace ch. 70.105B RCW with Initiative 97
26 (the Model Toxics Control Act). This Act will become effective
on March 1, 1989, replacing the present cleanup law, ch. 70.105B

DECLARATION OF
JEFFREY S. MYERS - 1

OFFICE OF THE ATTORNEY GENERAL
7th Floor, Highways-Licenses Building
PB 71
Olympia, WA 98504-8071
(206) 753-8200

1 RCW. Ecology has decided, as a policy, to attempt to satisfy
2 the requirements of both the Model Toxics Control Act and ch.
3 70.105B for consent decrees presented prior to March 1, 1989.
4 This Declaration will detail the steps taken by Ecology to
5 achieve that goal.

6 4. Although agreement was reached in this case in May
7 1988, the Consent Decree was not finalized until October 1988,
8 when it was circulated for signature by the parties. Upon
9 approval by all the parties, the Decree was lodged with the
10 Court on January 9, 1989.

11 5. Pursuant to RCW 70.105B.070(5), the Decree was lodged
12 in Court pending a period for public comment of at least 30
13 days. Contemporaneously with this Declaration the plaintiffs
14 are presenting all written comments received to date and are
15 responding to such comments.

16 6. Section 4(4)(a) of the Model Toxics Control Act permits
17 a settlement with potentially liable persons only if Ecology
18 finds, after public notice and hearing, that the proposed
19 settlement would "lead to a more expeditious cleanup of
20 hazardous substances in compliance with cleanup standards under
21 section 3(2)(d) of this act and with any remedial orders issued
22 by the department."

23 7. Ecology published public notice of a public meeting and
24 opportunity to present views on the Consent Decree. Notice was
25 published in both major newspapers serving the Spokane
26

1 metropolitan area, the Spokesman Review and Daily Chronicle.
2 These notices appeared on February 1, 1989 and announced the
3 meeting planned for February 2. Due to inclement weather, the
4 meeting was postponed until February 8 and the local media was
5 alerted to this change.

6 8. On February 8, 1989 a meeting was conducted by Ecology
7 and the Environmental Protection Agency to explain the Decree
8 and receive comment. Oral comments were received which are
9 summarized and responded to in the memorandum accompanying this
10 Declaration. Approximately 50 people attended this meeting and
11 were provided the opportunity to present their views.

12 9. On information and belief, I am aware that Ecology has
13 determined that the proposed Consent Decree will provide a more
14 expeditious cleanup of the hazardous substances released from
15 the Colbert Landfill. The cleanup will be in compliance with
16 cleanup standards mandated by section 3(2)(d) of the Model
17 Toxics Control Act, which provides that cleanup levels will be
18 at least as stringent as cleanup standards under section 121 of
19 CERCLA, 42 U.S.C. § 9621, and at least as stringent as all
20 applicable state and federal laws, including health based
21 standards under state and federal law. Because this Decree is
22 presented under CERCLA, the cleanup must satisfy the
23 requirements of § 121 to provide a level of cleanup that meets
24 all applicable or relevant and appropriate standards. See 42
25 U.S.C. § 9621(d)(2)(A). Moreover, I am informed that the
26

1 proposed Consent Decree is not inconsistent with prior remedial
2 orders issued by Ecology or EPA.

3 10. I declare that the foregoing is, to the best of my
4 knowledge, true and correct and that I have been authorized by
5 Ecology to provide this information to the Court.

6 DATED this 16th day of February, 1989.

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9 Jeffrey S. Myers
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RECEIVED

FEB 23 1989

OFFICE OF REGIONAL COUNSEL
EPA - REGION X

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

FEB 21 1989

JAMES R. LARSEN, Clerk
Deputy

1 JOHN E. LAMP
2 UNITED STATES ATTORNEY
3 Eastern District of Washington

4 STEPHANIE J. JOHNSON
5 Assistant United States Attorney
6 Post Office Box 1494
7 Spokane, WA 99210-1494
8 Telephone: (509) 456-3811
9 (FTS) 439-3811

10 UNITED STATES DISTRICT COURT
11 EASTERN DISTRICT OF WASHINGTON

12 UNITED STATES OF AMERICA; and)
13 THE STATE OF WASHINGTON;)

14 Plaintiffs,)

15 v.)

16 COUNTY OF SPOKANE; and)
17 KEY TRONIC CORPORATION;)

18 Defendants.)

Civil Action No. C-89-033-RJM

GOVERNMENT'S MOTION FOR ENTRY
OF CONSENT DECREE

19 Plaintiff, United States of America, by and through John E.
20 Lamp, United States Attorney for the Eastern District of Washington,
21 and Stephanie J. Johnson, Assistant United States Attorney for the
22 Eastern District of Washington, comes now and requests the Court to
23 enter the Consent Decree in the above-entitled case, pursuant to
24 R.C.W. 70.105B.070(5).

25 In support of this motion, the Government relies on the
26 attached memorandum, exhibits and declaration of James L. Nicoll,
Jr., Attorney for the United States Department of Justice, Land
and Natural Resource Division, which indicates the Government has
provided 30 days for public comment and has complied with the

1 statutory requirements with respect to entry of the Consent
2 Decree.

3 DATED this 17th day of February, 1989.

4 JOHN E. LAMP
5 United States Attorney

6
7 Stephanie J. Johnson
8 STEPHANIE J. JOHNSON
9 Assistant United States Attorney
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FEB 23 1989

OFFICE OF REGIONAL COUNSEL
EPA - REGION X

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

FEB 21 1989

JAMES R. LARSEN, Clerk
Deputy

1 JOHN E. LAMP
2 UNITED STATES ATTORNEY
3 EASTERN DISTRICT OF WASHINGTON

4 STEPHANIE J. JOHNSON
5 Assistant United States Attorney
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7 Spokane, WA 99210-1494
8 Telephone: (509) 456-3811
9 (FTS) 439-3811

10 UNITED STATES DISTRICT COURT
11 EASTERN DISTRICT OF WASHINGTON

12 UNITED STATES OF AMERICA; and)
13 THE STATE OF WASHINGTON;)

14 Plaintiffs,)

15 v.)

16 COUNTY OF SPOKANE; and)
17 KEY TRONIC CORPORATION;)

18 Defendants.)

Civil Action No. C-89-033-RJM

NOTICE OF EXPEDITED HEARING
(Without Oral Argument)

19 NOTICE IS HEREBY GIVEN to all parties that the Government's
20 Motion for Entry of the Consent Decree in the above-entitled case
21 will be brought on for expedited hearing without oral argument
22 at Spokane, Washington, as soon as the same may be heard.

23 DATED this 17th day of February, 1989.

24 JOHN E. LAMP
25 United States Attorney

26 Stephanie J. Johnson
STEPHANIE J. JOHNSON
Assistant United States Attorney

RECEIVED

FEB 23 1989

OFFICE OF REGIONAL COUNSEL
FEDERAL REGION X
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

FEB 21 1989

JAMES R. LARSEN, Clerk
Deputy

1 JOHN E. LAMP
2 UNITED STATES ATTORNEY
3 EASTERN DISTRICT OF WASHINGTON

4 STEPHANIE J. JOHNSON
5 Assistant United States Attorney
6 Post Office Box 1494
7 Spokane, WA 99210-1494
8 Telephone: (509) 456-3811
9 (FTS) 439-3811

10 UNITED STATES DISTRICT COURT
11 EASTERN DISTRICT OF WASHINGTON

12 UNITED STATES OF AMERICA; and)
13 THE STATE OF WASHINGTON;)

14 Plaintiffs,)

15 v.)

16 COUNTY OF SPOKANE; and)
17 KEY TRONIC CORPORATION;)

18 Defendants.)

Civil Action No. C-89-033-RJM

GOVERNMENT'S MOTION FOR
EXPEDITED ENTRY OF THE CONSENT
DECREE BEFORE MARCH 1, 1989

19 Plaintiff, United States of America, by and through John E.
20 Lamp, United States Attorney for the Eastern District of Washington,
21 and Stephanie J. Johnson, Assistant United States Attorney for the
22 Eastern District of Washington, comes now and respectfully requests
23 the Court to waive the time requirements of Local Rule 7 and,
24 pursuant to Local Rule 7(h)(6), grant an immediate hearing,
25 without oral argument, for entry of the Consent Decree before
26 March 1, 1989.

On March 1, 1989, R.C.W. 70.105 will be replaced with
Initiative 97. If the Consent Decree is not entered by the Court
before March 1, 1989, the statutory authority for the Decree will
be repealed which would require rewriting and renegotiating the

1 Consent Decree. (Please see Declaration of Jeffrey Myers,
2 Exhibit "I", which is included in Exhibits to Government's
3 Memorandum In Support of Motion To Enter Consent Decree.)

4 DATED this 17th day of February, 1989.

5 JOHN E. LAMP
6 United States Attorney

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8 Stephanie J. Johnson
9 STEPHANIE J. JOHNSON
10 Assistant United States Attorney
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RECEIVED

FEB 17 1989

DONALD A. CARR
Acting Assistant Attorney General
Land and Natural Resources Division
United States Department of Justice

JOHN E. LAMP
United States Attorney
Eastern District of Washington

STEPHANIE J. JOHNSON
Assistant United States Attorney
Eastern District of Washington
P.O. Box 1494
Spokane, Washington 99210-1494
(509) 456-3811

JAMES L. NICOLL, JR.
Land and Natural Resources Division
Environmental Enforcement Section
U.S. Department of Justice,
10th St. & Pennsylvania Ave., N.W.
Washington, D.C. 20530
(202) 633-1461

KENNETH O. EIKENBERRY
Attorney General
State of Washington

JEFFREY S. MYERS
Assistant Attorney General
State of Washington
Department of Ecology
Mail Stop PV11
Olympia, Washington 98504
(206) 459-6134

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

FEB 21 1989

JAMES R. LARSEN, Clerk
Deputy

RECEIVED

FEB 23 1989

OFFICE OF REGIONAL COUNSEL
EPA - REGION X

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA; and)
THE STATE OF WASHINGTON;)

Plaintiffs,)

v.)

COUNTY OF SPOKANE; and)
KEY TRONIC CORPORATION;)

Defendants.)

Civil Action No. C89-033-RJM

DECLARATION OF
JAMES L. NICOLL, JR.

DECLARATION OF
JAMES L. NICOLL, JR. - 1

1 JAMES L. NICOLL, JR. declares that:

2 1. I am an attorney with the U.S. Department of Justice. I
3 make this declaration in support of the United States' and State
4 of Washington's (the "governments'") motion to enter the proposed
5 consent decree in this case.

6 2. Section 9622(d)(2) of the Comprehensive Environmental
7 Response, Compensation and Liability Act, ("CERCLA"), 42 U.S.C. §
8 9622(d)(2), and 28 C.F.R. § 50.7 require that the United States
9 publish in the Federal Register a notice of the lodging of a
10 proposed consent decree under CERCLA, and provide the public 30
11 days in which to submit comments on the decree.

12 3. On January 9, 1989, the governments lodged with this
13 Court a proposed consent decree in this case.

14 4. On January 12, 1989, I caused to be published in the
15 Federal Register a notice of lodging of the proposed decree. See
16 Exhibit A.

17 5. For a period of thirty days, the United States has
18 accepted comments regarding the proposed decree. These comments
19 are attached as exhibits to the governments' motion to enter the
20 decree. The governments' response to these comments are
21 contained in the Governments' Memorandum in Support of Motion to
22 Enter Consent Decree.

23 6. Accordingly, the governments have complied with the
24 requirements of 42 U.S.C. § 9622(d)(2) and 28 C.F.R. § 50.7.

25 7. I declare under penalty of perjury that the foregoing is
26 true and correct.

27
28
DECLARATION OF
JAMES L. NICOLL, JR. - 2

Dated: February 16, 1989

James L. Nicoll, Jr.
James L. Nicoll, Jr.

DECLARATION OF
JAMES L. NICOLL, JR. - 3

ter, Pennsylvania, has been in violation of the discharge limitations and other terms and conditions of its National Pollutant Discharge Elimination System ("NPDES") permit issued pursuant to section 402 of the Clean Water Act, 33 U.S.C. 1362, and seeks injunctive relief and civil penalties. The Consent Decree provides for payment of an \$800,000 civil penalty, for performance of an environmental assessment of the wastewater treatment facilities at the plant by an independent consultant and the implementation of all recommended measures to improve wastewater treatment at the plant.

The Department of Justice will receive for a period of thirty (30) days from the date of publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States v. Armco Inc.*, DJ Ref. 90-5-1-1-2944.

The proposed Consent Decree may be examined at the Office of the United States Attorney, Western District of Pennsylvania, 633 U.S. Post Office & Courthouse, 7th Avenue & Grant Street, Pittsburgh, Pennsylvania, and at the Region III Office of the Environmental Protection Agency, 841 Chestnut Street, Philadelphia, Pennsylvania, 19107. Copies of the Consent Decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue NW., Washington, DC 20530. A copy of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy please enclose a check in the amount of \$2.10 (10 cents per page reproduction cost) payable to the Treasurer of the United States.

Roger J. Marzulla,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 89-820 Filed 1-11-89; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Consent Decree Pursuant to Comprehensive Environmental Response, Compensation, and Liability Act; Spokane, WA, et al.

In accordance with Departmental policy, 28 CFR 50.7, and section 122(d)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. 9622(d)(2),

notice is hereby given that on January 9, 1989, a proposed consent decree in *United States, et al. v. County of Spokane, et al.*, Civil Action No. C89-033-RJM, was lodged with the United States District Court for the Eastern District of Washington. The complaint filed by the United States alleged that the County of Spokane is the owner and operator of the Colbert Landfill and that Key Tronic Corp. generated and arranged for the transportation or disposal of hazardous substances at the Landfill; that there have been releases of hazardous substances into the environment at the facility; that the releases have caused the United States to incur response costs; that the Administrator of the U.S. Environmental Protection Agency (EPA) has determined that there is or may be an imminent and substantial endangerment to the public health, welfare or the environment because of the actual or threatened releases. The complaint sought injunctive relief to require the defendants to abate and remedy the imminent and substantial endangerment and the effects of the actual or threatened releases from the facility. The complaint further sought the reimbursement of past costs which were incurred by the United States in responding to the actual or threatened releases.

The consent decree requires the County of Spokane to implement the remedy selected by EPA. Key Tronic Corp. will contribute to the cost of implementing the remedy. In addition, the decree provides for payment of costs incurred by EPA in responding to releases of hazardous substances at the site.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Chief, Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice, P.O. Box 7611, Washington, DC 20044, and should refer to *United States v. County of Spokane, et al.*, D.J. Ref. No. 90-11-2-359. The proposed consent decree may be examined at the office of the United States Attorney, Eastern District of Washington, 851 U.S. Courthouse, West 920 Riverside, Spokane, Washington; at the Region X Office of the Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington; and at the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice, Room 1517, Ninth Street and

Pennsylvania Avenue NW., Washington, DC. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice, P.O. Box 7611, Washington, DC 20044. In requesting a copy, please refer to *United States v. County of Spokane, et al.*, D.J. Ref. No. 90-11-2-359, and enclose a check in the amount of \$17.80 payable to the Treasurer of the United States.

Roger J. Marzulla,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 89-849 Filed 1-11-89; 8:45 am]

BILLING CODE 4401-01-M

Antitrust Division

National Cooperative Research Act of 1984; West Agro, Inc.; Iodophors Joint Venture

Notice is hereby given that, on December 13, 1988, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), West Agro, Incorporated—Iodophors Joint Venture ("Joint Venture") filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in the Joint Venture membership. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the Joint Venture advised that Lonza, Inc. has become a member of the Joint Venture.

No other changes have been made in either the membership or planned activity of the Joint Venture.

On December 15, 1987, the Joint Venture filed its original notification pursuant to section 6(a) of the Act. The Department of Justice ("the Department") published a notice in the Federal Register pursuant to section 6(b) of the Act on January 15, 1988, 53 FR 1074, as corrected by 53 FR 4232. On May 24, 1988, the Joint Venture filed an additional written notification, in response to which the Department published a notice in the Federal Register on June 13, 1988, 53 FR 22059.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 89-617 Filed 1-11-89; 8:45 am]

BILLING CODE 4410-01-M

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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA; and)
THE STATE OF WASHINGTON;)

Plaintiffs,)

v.)

COUNTY OF SPOKANE; and)
KEY TRONIC CORPORATION;)

Defendants.)
-----)

GOVERNMENTS' MEMORANDUM
IN SUPPORT OF MOTION TO
ENTER CONSENT DECREE - 1

RECEIVED

FEB 17 1989

U.S. ATTORNEY
SPOKANE, WA

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

FEB 21 1989

JAMES R. LARSEN, Clerk
Deputy

RECEIVED

FEB 23 1989

OFFICE OF REGIONAL COUNSEL
EPA - REGION X

Civil Action No. C89-033-RJM

GOVERNMENTS' MEMORANDUM IN
SUPPORT OF MOTION TO ENTER
CONSENT DECREE

1
2 Introduction

3 This memorandum is submitted by plaintiffs United States of
4 America and State of Washington (the "governments") in support of
5 their motion for entry of the Consent Decree (the "Decree")
6 lodged with the Court on January 9, 1989. The Decree, which is
7 the product of months of negotiations, provides prompt and
8 effective cleanup of hazardous waste contamination at the Colbert
9 Landfill near Spokane, Washington (the "Site"). Pursuant to
10 section 122(d)(2) of the Comprehensive Environmental Response,
11 Compensation and Liability Act, ("CERCLA"), 42 U.S.C. §
12 9622(d)(2), and 28 C.F.R. § 50.7, the United States has published
13 notice of lodging of the Decree in the Federal Register, and has
14 accepted public comment on the Decree. The State of Washington
15 has likewise published public notices and accepted comment as
16 required by RCW 70.105B.070(5). See Declaration of Jeffrey S.
17 Myers, attached as Exhibit I. This memorandum contains a
18 response to these comments.

19 The Decree is the fastest, most cost effective response to
20 the hazards presented by the Site. Accordingly, the governments
21 respectfully request that the Court approve the Decree and enter
22 it so that essential cleanup work can begin at the Site.

23 Statement of Facts

24 Colbert Landfill was operated as a landfill by the Spokane
25 County Utilities Department from September 1968 until October
26 1986. During the period of the Site's operation, it was used by
27

28 GOVERNMENTS' MEMORANDUM
IN SUPPORT OF MOTION TO
ENTER CONSENT DECREE - 2

1 a number of companies in the area to dispose of hazardous
2 substances, including organic solvents. These wastes were
3 typically brought to the Site in drums, and poured into open
4 trenches to mix with soil and municipal refuse. The hazardous
5 substances disposed of at the Site have contaminated groundwater
6 beneath the Site.

7 In 1980 nearby residents complained to the Eastern Regional
8 Office of the Washington Department of Ecology ("Ecology") about
9 disposal practices at the Site. State and County officials
10 initiated an investigation into complaints of groundwater
11 contamination in the area by sampling private wells, some of
12 which were found to be contaminated with organic solvents.

13 Further investigatory work was financed by the U.S.
14 Environmental Protection Agency ("EPA"), the State of Washington
15 and some of the parties alleged to be responsible for disposal of
16 hazardous substances at the Site. On September 29, 1987, EPA
17 issued its Record of Decision selecting a remedy for the Site.
18 See Exhibit A. The State of Washington concurred in the ROD.
19 Essentially, the remedy involves ~~removal of contaminated soil~~,
20 extraction and treatment of contaminated groundwater, and
21 provision of an alternate water supply system to any residents
22 deprived of their domestic water supply due to demonstrated
23 contamination from the Site or from operation of the groundwater
24 extraction and treatment system. The remedy is designed to
25 achieve Maximum Contaminant Levels for drinking water established
26 by EPA under the Safe Drinking Water Act, 42 U.S.C. § 300f, et
27

28 GOVERNMENTS' MEMORANDUM
IN SUPPORT OF MOTION TO
ENTER CONSENT DECREE - 3

1 seq., and 40 C.F.R. § 141.64, or appropriate health based levels.
2 Any treatment system which will produce air emissions will be
3 designed to meet any appropriate State Air Toxics Guidelines, and
4 to use Best Available Control Technology to treat air emissions.
5 The remedy is estimated to cost approximately \$14 million.

6 Since January 1988, the United States, the State of
7 Washington and private parties have been negotiating over cleanup
8 of the Site. Spokane County has agreed to conduct the remedy
9 selected by the governments, and to reimburse the United States
10 for approximately \$1 million that EPA has already spent in
11 connection with its activities at the Site. Key Tronic Corp., a
12 local electronics manufacturer that sent solvents to the Site,
13 will contribute \$4.2 million to the cleanup effort. The U.S. Air
14 Force, which also sent solvents to the Site, will contribute
15 \$1.45 million to the cleanup through a separate inter-agency
16 agreement with EPA and the State. The State has agreed to
17 authorize claims against the state local toxics control account
18 and has waived collection of certain response costs to provide
19 approximately \$760,000 in funding under RCW 70.105B.070(7). The
20 State will also assist the County by providing grants for cleanup
21 activities. The County has been authorized to make a claim of
22 \$1.4 million against the federal Hazardous Substances Superfund
23 to pay for the remainder of the cleanup costs. The United States
24 and State of Washington will ultimately seek to recover this
25 money from any other parties liable for contamination of the
26 Site.

27
28 GOVERNMENTS' MEMORANDUM
IN SUPPORT OF MOTION TO
ENTER CONSENT DECREE - 4

[illegible]

Three commenters expressed concern with the use of air stripping towers to treat contaminated groundwater extracted from the aquifer beneath the Site. See Exhibits D,E and F. The commenters indicated that they feared contamination of the air, and possible contamination of soil and food grown in the area. Two commenters questioned the adequacy of air monitoring at the Site, and one asked that a member of the community be trained to sample ambient air quality.

GOVERNMENTS' MEMORANDUM
IN SUPPORT OF MOTION TO
ENTER CONSENT DECREE - 5

1 confined, indoor area, but will be directed outdoors. Natural
2 attenuation, dilution, and dispersion of the contaminants will
3 reduce the concentration of contaminants far below any applicable
4 ambient air standards within a few feet of the treatment
5 facility. Calculations were based on a worst case analysis of
6 projected air emissions. Thus, citizens in the area of the Site
7 will not be exposed to air contaminants in excess of applicable
8 ambient air quality standards and appropriate health-based
9 standards.

10 Air emissions data will be gathered during pilot plant
11 studies. Any data gathered by the County will be obtained in
12 accordance with monitoring methods approved by the governments.
13 The governments have no reason to believe that the County is
14 unable to do the proper collection of air samples. Under the
15 Decree, air emissions from the treatment facility are required to
16 meet the appropriate emissions and ambient air standards at all
17 times. If air monitoring data indicate that these standards are
18 exceeded, additional air emission controls will be required.
19 Unfortunately, the complexity of air sampling makes it impossible
20 for the governments to train private citizens to do any sampling.

21 The Whitworth Water District No. 2 stated that the ROD was
22 inconsistent with the Decree because the ROD required extension
23 of the District's water system to provide an alternative water
24 supply, while the Decree allows several different methods of
25 providing an alternative water supply. See Exhibit H. The
26 District asserted that state law requires that it be the
27

28 GOVERNMENTS' MEMORANDUM
IN SUPPORT OF MOTION TO
ENTER CONSENT DECREE - 6

1 exclusive provider of water in its water supply district. The
2 District further stated that while the Decree requires that the
3 County must provide for the supply of the lesser of state
4 standards or an individual's current well usage, the District's
5 system is legally unable to provide only such small amounts of
6 water to the public. Finally, the District asked that the Decree
7 specify the division of costs between the County and the
8 District.

9 The District's comments are based on a misunderstanding of
10 the requirements of the ROD and the Decree, and the mistaken
11 belief that the Decree obligates the District to provide an
12 alternative water supply. The ROD and the Decree requires that
13 alternative water supplies be provided to those persons whose
14 wells become contaminated as a result of releases of hazardous
15 substances from the Site, or who are deprived of water as a
16 result of operation of the groundwater treatment system. The
17 County is free to use the most efficient method of achieving this
18 objective. Improvements to individual wells may suffice in some
19 cases; improvements to existing public supplies with the District
20 may be required in other situations. It should be noted that
21 water from existing contaminated wells can be used for purposes
22 other than drinking water, such as irrigation. Accordingly, it
23 may not be necessary, as the District suggests, to expand the
24 public water supply system, or improve existing wells. It may be
25 possible to supply bottled drinking water. Furthermore, the
26 District is already providing an alternative water to some
27

28 GOVERNMENTS' MEMORANDUM
IN SUPPORT OF MOTION TO
ENTER CONSENT DECREE - 7

1 residents under an agreement with the County, Key Tronic and the
2 District. Obviously, any modifications to the District's public
3 water supply system will be implemented in compliance with
4 applicable law, although it should be noted that federal and
5 state law may exempt remedial action at the Site from the
6 provisions cited by the District. See 42 U.S.C. § 9622(e)(1) and
7 RCW 70.105B.250.

8 At this stage of the design of the remedy, the governments
9 do not believe that it is appropriate to specify in the Decree
10 the precise method by which the County should comply with its
11 obligation to provide alternative water supplies. To a great
12 extent, the precise methods used will depend upon the effects of
13 the operation of the treatment system, and individual
14 consideration of each case. It is important to allow the County
15 the flexibility to select the most desirable means to provide an
16 alternative water system. Therefore, the governments do not
17 believe that it is appropriate to modify the Decree to mandate
18 expansion of the District's water supply system. The governments
19 have been aware of the District's desire to finance an expansion
20 of its supply system out of settlement of this case. The
21 governments believe that it would be a waste of County taxpayer's
22 money to mandate this method of providing alternative water
23 supplies at this time.

24 Finally, the District has complained that it was excluded
25 from negotiations over the proposed Decree. First, the Decree
26 does not obligate the District to do anything, and therefore its
27

28 GOVERNMENTS' MEMORANDUM
IN SUPPORT OF MOTION TO
ENTER CONSENT DECREE - 8

1 participation in negotiations over the Decree was hardly
2 required. Furthermore, CERCLA defines the parties responsible
3 for cleanup of hazardous waste sites and sets out the framework
4 for negotiations for remedial action. See 42 U.S.C. §§ 9607 and
5 9622. To the best of the governments' knowledge, the District is
6 not a liable party under CERCLA, nor is it required by CERCLA to
7 be included in negotiations with liable parties. The District
8 has had the same opportunity to review and comment upon the
9 Decree as other interested members of the public have had.

10 One commenter suggested that the alternative water supply
11 provision change the wording defining adverse impact. See
12 Exhibit G. The suggested language would refer to priority dates
13 for water rights instead of the filing date. The parties agree
14 with this comment and will make appropriate changes to the Scope
15 of Work.

16 The commenter also questioned whether persons who drilled
17 wells outside areas of known contamination after entry of the
18 Decree would be connected to the alternative water supply if
19 their wells subsequently became contaminated. The intent of the
20 scope of work is to provide an alternative water supply in these
21 circumstances. The parties have agreed to clarify the language
22 in the Scope of Work to reflect this intent.

23 The commenter also stated that the time allowed between the
24 public meeting and the end of the comment period was not
25 adequate. The governments have complied with legally required
26 comment periods and have received several detailed comments.

27
28 GOVERNMENTS' MEMORANDUM
IN SUPPORT OF MOTION TO
ENTER CONSENT DECREE - 9

1 Moreover, a public meeting and opportunity to present comment,
2 which is not mandated by law, was held on February 8 in an
3 effort to fully inform the public. The governments believe that
4 an adequate opportunity to review and comment on the decree has
5 been provided.

6 One commenter expressed concern regarding the effect of the
7 pumping system on water levels in wells screened in the upper
8 aquifer in the area of the Site. See Exhibit E.

9 The effects of the treatment system on well drawdown was
10 examined during the Feasibility Study. The effects are expected
11 to be limited to the immediate area of the extraction wells. If
12 operation of the extraction well system makes existing wells
13 unusable, an alternative water supply must be provided.

14 Another commenter asked that water treated at the Site be
15 used for irrigation, rather than being discharged into the Little
16 Spokane River. See Exhibits B and C.

17 The water discharged from the treatment facility will meet
18 drinking water standards. It can be used for irrigation or other
19 purposes. Consent decrees under CERCLA and Ch. 70.105B are
20 intended to protect public health and the environment. The
21 provision of irrigation water is beyond the scope of remedial
22 action. Nevertheless, an attempt was made during the Feasibility
23 Study to identify uses for this water. No sufficiently steady
24 and dependable uses could be found to justify the added expense
25 of developing a water supply system, in addition to the discharge
26 line to the Little Spokane River. Nevertheless, anyone who is
27

28 GOVERNMENTS' MEMORANDUM
IN SUPPORT OF MOTION TO
ENTER CONSENT DECREE - 10

1 interested in obtaining water should contact the County, which
2 can determine whether the expense of developing a water
3 distribution system is justified.

4 ARGUMENT

5 BECAUSE THE CONSENT DECREE PROVIDES FOR PROMPT, EFFECTIVE
6 CLEANUP OF THE COLBERT LANDFILL, IT IS CLEARLY IN THE PUBLIC
7 INTEREST, AND SHOULD BE ENTERED BY THE COURT

8 A. Public Policy Favors CERCLA Settlements

9 "Public policy strongly favors settlements of disputes
10 without litigation." Aro Corp. v. Allied Witan Co., 531 F.2d
11 1368, 1372, (6th Cir.), cert. denied, 429 U.S. 862 (1976). As
12 the Court in Aro stated: "Settlement agreements should . . . be
13 upheld whenever equitable and policy considerations so permit.
14 By such agreements are the burdens of trial spared to the
15 parties, to other litigants waiting their turn before over-
16 burdened courts, and to the citizens whose taxes support the
17 latter. An amicable compromise provides the more speedy and
18 reasonable remedy for the dispute." See also Citizens for a
19 Better Environment v. Gorsuch, 718 F.2d 1117, 1126 (D.C. Cir.
20 1983), cert. denied, 467 U.S. 1219 (1984); Autera v. Robinson,
21 419 F.2d 1197, 1199 (D.C. Cir. 1969). There is a "clear policy
22 in favor of encouraging settlements . . . particularly in an
23 area where voluntary compliance by the parties . . . will
24 contribute significantly toward ultimate achievement of statutory
25 goals." Patterson v. Newspaper & Mail Deliverers Union of New
26 York, 514 F.2d 767, 771 (2d Cir. 1975), cert. denied, 427 U.S.
27 911 (1976). The consent decree is a "highly useful tool for

28 GOVERNMENTS' MEMORANDUM
IN SUPPORT OF MOTION TO
ENTER CONSENT DECREE - 11

1 government agencies," for it "maximizes the effectiveness of
2 limited law enforcement resources" by permitting the government
3 to obtain compliance with the law without lengthy litigation.
4 United States v. City of Jackson, 519 F.2d 1147, 1151 (5th Cir.
5 1975); see also United States v. Hooker Chemicals & Plastics
6 Corp., 540 F. Supp. 1067, 1080 (W.D.N.Y. 1982); Moch v. East
7 Baton Rouge Parish School Board, 533 F. Supp. 556, 559 (M.D. La.
8 1980). The use of consent decrees "encourages informal
9 resolution of disputes, thereby lessening the risks and costs of
10 litigation." Securities and Exchange Commission v. Randolph, 736
11 F.2d 525, 528 (9th Cir. 1984). See also United States v. City of
12 Alexandria, 614 F.2d 1358, 1362 (5th Cir. 1980).

13 In CERCLA cases, strong public policies favor settlements of
14 government claims by consent decree. See Dedham Water Co. v.
15 Cumberland Farms Dairy, Inc., 805 F.2d 1074, 1082 (1st Cir. 1986)
16 ("early resolution of [CERCLA] disputes is a desirable
17 objective"). While CERCLA authorizes government cleanup of
18 hazardous waste sites using money provided by the Hazardous
19 Substances Superfund (the "Fund"), the Fund is limited and cannot
20 finance cleanup of all of the many hazardous waste sites
21 nationwide. See, e.g., Cong. Rec. H11070 (Dec. 5, 1985)
22 (Statement of Rep. Florio). Indeed, Congress knew when it
23 enacted CERCLA that the costs of response activities would
24 greatly exceed the Superfund. See S. Rep. No. 848, 96th Cong. 2d
25 Sess. at 17-18 (1980). The Fund is intended to finance cleanup
26 "if the site has been abandoned, if the responsible parties elude
27

28 GOVERNMENTS' MEMORANDUM
IN SUPPORT OF MOTION TO
ENTER CONSENT DECREE - 12

1 detection, or if private resources are inadequate." New York v.
2 Shore Realty Corp., 759 F.2d 1032, 1041 (2d Cir. 1985); see also
3 United States v. Reilly Tar & Chemical Co., 546 F. Supp. 1100,
4 1111 (D. Minn. 1982). Accordingly, "spending precious Superfund
5 monies on a site when there are responsible parties ready and
6 willing to spend private monies to accomplish the same result
7 would hardly be an effective use of government resources."
8 United States v. Conservation Chemical Co., 628 F. Supp. 391, 403
9 (W.D. Mo. 1985).

10 Thus, there are strong reasons for preferring voluntary
11 private party cleanup of hazardous waste sites. Where a private
12 cleanup plan meets government requirements, "public policy
13 demands that preference be given to the use of private funds for
14 cleanup of hazardous waste sites." United States v. Conservation
15 Chemical Co., 628 F. Supp. at 403.

16 B. Standard of Review

17 Review of a consent decree is committed to the informed
18 discretion of the trial judge. United States v. Hooker Chemical
19 & Plastics Corp., 776 F.2d 410, 411 (2d Cir. 1985); see also
20 Officers for Justice v. Civil Service Commission, 688 F.2d 615,
21 625-26 (9th Cir. 1982), cert. denied, 459 U.S. 1217 (1983); City
22 of Detroit v. Grinnell Corp., 495 F.2d 448, 455 (2d Cir. 1974).
23 This discretion should be exercised to further the strong policy
24 favoring voluntary settlement of litigation. See United States
25 v. Hooker Chemical & Plastics Corp., 776 F.2d at 411; Citizens
26 for a Better Environment v. Gorsuch, 718 F.2d at 1126; United

1 States v. State of Louisiana, 527 F. Supp. 509, 511 (E.D. La.
2 1981).

3 Although a consent decree, as a judicial act, requires
4 approval by the court, the reviewing court does not have the
5 power to modify a consent decree; it can only approve or reject
6 the consent decree. Officers for Justice v. Civil Service
7 Commission, 688 F.2d at 630; Walsh v. Great Atlantic & Pacific
8 Tea Co., 726 F.2d 956, 965 (3d Cir. 1983); see also Securities
9 and Exchange Commission v. Randolph, 736 F.2d at 525, 529; Harris
10 v. Pernsley, 654 F. Supp. 1042, 1049 (E.D. Pa.), aff'd 820 F.2d
11 592 (3d Cir.), cert. denied, 108 S.Ct 336 (1987). The
12 controlling criterion is not what might have been agreed upon,
13 nor what the district court believes might have been the optimal
14 settlement. See Armstrong v. Board of School Directors, 616 F.2d
15 305, 315 (7th Cir. 1980).

16 In reviewing a consent decree, a court should "assure itself
17 that there has been valid consent by the concerned parties and
18 that the terms of the decree are not unlawful, unreasonable, or
19 inequitable." United States v. City of Jackson, 519 F.2d at
20 1151. See also Moch v. East Baton Rouge Parish School Board,
21 supra, 533 F. Supp. at 559. The process of settlement "is above
22 all a process of compromise in which, 'in exchange for the saving
23 of cost and elimination of risk, the parties each give up
24 something they might have won had they proceeded with the
25 litigation.'" United States v. City of Jackson, 519 F.2d at 1152
26 (quoting United States v. Armour & Co., 402 U.S. 673, 682
27
28

GOVERNMENTS' MEMORANDUM
IN SUPPORT OF MOTION TO
ENTER CONSENT DECREE - 14

1 (1971)).

2 Where a Court is reviewing a consent decree to which the
3 government is a party, the balancing of competing interests
4 affected by a proposed consent decree "must be left, in the first
5 instance, to the discretion of the Attorney General." United
6 States v. Bechtel Corp., 648 F.2d 660, 666 (9th Cir.), cert.
7 denied, 454 U.S. 1083 (1981); see also Sam Fox Publishing Co. v.
8 United States, 366 U.S. 683, 689 (1961) (the government has the
9 discretion over accepting a consent decree unless there is bad
10 faith or malfeasance); United States v. Associated Milk
11 Producers, Inc., 534 F.2d 113, 117 (8th Cir.), cert. denied, 429
12 U.S. 940 (1976) (Attorney General must retain discretion in
13 "controlling government litigation and in determining what is in
14 the public interest"). This principle is particularly important
15 where the consent decree has been negotiated by the Justice
16 Department on behalf of a federal administrative agency
17 "specially equipped, trained and oriented in the field." United
18 States v. National Broadcasting Co., 449 F. Supp. 1127, 1144
19 (C.D. Cal. 1978). Thus, the Ninth Circuit has held that
20 "[u]nless a consent decree is unfair, inadequate, or
21 unreasonable, it ought to be approved. . . . [T]he courts should
22 pay deference to the judgment of the government agency which has
23 negotiated and submitted the proposed judgment." Securities and
24 Exchange Commission v. Randolph, 736 F.2d at 529.

25 C. Factors For A Court To Consider In
26 Reviewing a CERCLA Consent Decree

27 Congress and the courts have identified a series of factors

28 GOVERNMENTS' MEMORANDUM
IN SUPPORT OF MOTION TO
ENTER CONSENT DECREE - 15

1 for a court to consider in reviewing a proposed CERCLA
2 settlement. The legislative history for the 1986 amendments to
3 CERCLA establishes that a court's role in reviewing a Superfund
4 settlement is to "satisfy itself that the settlement is
5 reasonable, fair, and consistent with the purposes that CERCLA is
6 intended to serve." H.R. Rep. No. 253, Part 3, 99th Cong., 1st
7 Sess. 19 (1985). This three part test of (1) fairness, (2)
8 reasonableness, and (3) consistency with CERCLA's goals, is
9 similar to the three part test the courts have used in evaluating
10 settlements under CERCLA, prior to the 1986 amendments. United
11 States v. Conservation Chemical Co., 628 F. Supp. 391, 400 (W.D.
12 Mo. 1985); United States v. Seymour Recycling Corp., 554 F. Supp.
13 1334, 1337-38 (S.D. Ind. 1982). It also parallels the standard
14 enunciated by the Ninth Circuit for the review of Consent Decrees
15 generally. See Securities and Exchange Commission v. Randolph,
16 736 F.2d at 529.

17 Consequently, in considering the Decree here, this Court
18 should evaluate its fairness, reasonableness, and consistency
19 with Congress's goals in enacting CERCLA.

20 1. The Partial Consent Decree Is Fair

21 In United States v. Hooker Chemical & Plastics Corp., 607 F.
22 Supp. 1052, 1057 (W.D.N.Y.), aff'd, 776 F.2d 410 (2d
23 Cir. 1985), the Court noted that in determining whether a
24 settlement is fair, a court should look to factors such as "the
25 good faith efforts of the negotiators, the opinions of counsel,
26 and the possible risks involved in litigation if the settlement
27

28 GOVERNMENTS' MEMORANDUM
IN SUPPORT OF MOTION TO
ENTER CONSENT DECREE - 16

1 is not approved." Based on this standard, the proposed Decree is
2 unquestionably fair.

3 The proposed Decree is the product of months of hard
4 bargaining by the parties. There is no suggestion in the record
5 that the Decree represents anything other than the fruit of
6 intensive arms-length negotiations.

7 In evaluating fairness, an important factor to consider is
8 that the United States, the State, and the settling defendants
9 faced significant litigation risks. Numerous courts have held
10 that liability under CERCLA is strict, joint and several where
11 the harm is indivisible. See, e.g., United States v. South
12 Carolina Recycling and Disposal, Inc., 653 F. Supp. 984, 991 n.2,
13 994 (D.S.C. 1984), aff'd in part and vac'd in part on other
14 grounds, 858 F.2d 160 (4th Cir. 1988); United States v.
15 Northeastern Pharmaceutical and Chemical Co., 579 F. Supp. 823,
16 843-44 (W.D. Mo. 1984), aff'd in part and rev'd in part on other
17 grounds, 810 F.2d 726 (8th Cir. 1986), cert. denied, __ U.S. __,
18 108 S.Ct. 146 (1987); United States v. Wade, 577 F. Supp. 1326,
19 1338 (E.D. Pa. 1983); United States v. Chem-Dyne Corp., 572 F.
20 Supp. 802, 805, 810 (S.D. Ohio 1983). Thus, each of the settling
21 defendants might have been held individually responsible for all
22 government response costs regarding the Site. On the other hand,
23 the United States faced the burden of proving all the necessary
24 elements of liability and of demonstrating the appropriateness of
25 the selected remedy. The settlement is a compromise reflecting
26 the balancing of those respective litigation risks. Both the
27

28 GOVERNMENTS' MEMORANDUM
IN SUPPORT OF MOTION TO
ENTER CONSENT DECREE - 17

1 governments and the settling defendants made compromises and
2 received benefits -- the governments receive somewhat less than
3 full reimbursement for their response costs related to the Site,
4 and the settling defendants agree to fund and perform the
5 remedial action; the public interest is served through the
6 abatement of a threat to public health and welfare and the
7 environment, and the settling defendants largely resolve their
8 potential liability to the United States and the State for
9 matters relating to the Site.

10 The proposed Decree is also fair to the parties that did not
11 settle. While non-settlers were afforded the opportunity to
12 settle, they declined to do so. They nevertheless benefit from
13 the settlement in that, pursuant to 42 U.S.C. § 9613(f)(2), the
14 governments' claims against non-settling parties for performance
15 of the remedy will be extinguished. It is the County of Spokane
16 that bears the burden of implementing the remedy, and the risk of
17 cost overruns. In addition, the governments' claims against non-
18 settlers for recovery of government response costs must be
19 reduced by the amount of response cost reimbursement received
20 from the settlers. The non-settlers retain, of course, any
21 defenses to liability that they may have. The governments have
22 carefully analyzed the information available on the nature and
23 extent of each potential defendant's contribution to the Site.
24 The governments believe that the proposed Decree embodies a fair
25 and reasonable settlement of their claims against the parties to
26 the Decree.

27
28 GOVERNMENTS' MEMORANDUM
IN SUPPORT OF MOTION TO
ENTER CONSENT DECREE - 18

1 Thus, the Decree represents the results of months of good
2 faith negotiations among the parties. It is fair to settlers and
3 non-settlers alike.

4 2. The Partial Consent Decree Is Reasonable

5 The Conservation Chemical court set forth several criteria
6 relevant to whether a Superfund settlement is "reasonable": (1)
7 the nature and extent of the hazards at the Site; (2) the degree
8 to which the remedy provided for in the Decree will adequately
9 address the hazards present at the site; (3) the possible
10 alternative approaches for remedying the hazards at the site.
11 United States v. Conservation Chemical Co., 628 F. Supp. at 401,
12 relying on United States v. Seymour Recycling Corp., supra, 554
13 F. Supp. at 1339. These criteria reflect the Court's "limited
14 duty" to inquire into the technical aspects of the Decree in
15 order to ensure that the proposed settlement adequately addresses
16 environmental and public health concerns. See United States v.
17 Hooker Chemicals & Plastics Corp., 540 F. Supp. 1067, 1072
18 (W.D.N.Y. 1982). Because selection of a remedy involves
19 balancing of numerous complex technical factors within EPA's
20 expertise, the EPA remedy must be upheld unless the agency was
21 arbitrary and capricious in selecting it. See, e.g., United
22 States v. Northeastern Pharmaceutical and Chemical Co., 810 F.2d
23 726, 748 (8th Cir. 1986), cert. denied, __ U.S. __, 108 S. Ct.
24 146 (1987); United States v. Ward, 618 F. Supp. 884, 900
25 (E.D.N.C. 1985). Congress has recently confirmed this principle
26 in the 1986 Amendments to CERCLA by explicitly incorporating this
27

28 GOVERNMENTS' MEMORANDUM
IN SUPPORT OF MOTION TO
ENTER CONSENT DECREE - 19

1 "arbitrary and capricious" test in section 113(j)(2) of CERCLA,
2 42 U.S.C. § 9613(j)(2).

3 The basis for the remedy selected for the Site is explained
4 in EPA's Record of Decision ("ROD"), which is attached as Exhibit
5 A. As indicated in the ROD, the selected remedial action was
6 chosen in compliance with section 121 of CERCLA, 42 U.S.C. §
7 9621, and protects human health and the environment at the Site.
8 Therefore, the Decree provides for an appropriate remedy and is a
9 reasonable settlement.

10 The comments received during the public comment period are
11 discussed at p. 5-11 above. As the responses to these comments
12 demonstrate, none of these comments provide any reason for
13 delaying entry of the consent decree, and cleanup of the Site.

14 Accordingly, the remedy embodied in the Decree has been
15 chosen in compliance with the relevant statutory standards.
16 There is no reason to question the technical adequacy of the
17 remedy. The proposed Decree is therefore a reasonable settlement
18 of this case.

19 3. The Decree Furthers CERCLA's Goals

20 Finally, the Decree implements the specific statutory
21 policies underlying this case and are in the public interest.
22 See United States v. Hooker Chemical & Plastics Corp., supra, 607
23 F. Supp. at 1057. The goal of CERCLA is "to protect and preserve
24 public health and the environment" from the effects of the
25 release or threatened release of hazardous substances into the
26 environment. Dedham Water Co. v. Cumberland Farms Dairy, Inc.,

27
28 GOVERNMENTS' MEMORANDUM
IN SUPPORT OF MOTION TO
ENTER CONSENT DECREE - 20

1 805 F.2d at 1081; Lone Pine Steering Committee v. EPA, 600 F.
2 Supp. 1487, 1489 (D.N.J.), aff'd, 777 F.2d 882 (3d Cir. 1985),
3 cert. denied, 476 U.S. 1115 (1986).

4 Clearly, this settlement furthers CERCLA's goals. As the
5 court in Conservation Chemical noted in a similar context, a
6 settlement such as this furthers CERCLA's goals in three ways.
7 First, it provides for cleanup of a hazardous waste site that is
8 a serious enough environmental and public health problem to have
9 qualified for listing on the National Priorities List. Second,
10 the settlement will result in an expeditious cleanup of the Site
11 by private parties. Finally, the settlement will produce a
12 cleanup of a Superfund site with only a small expenditure of
13 scarce Superfund dollars. United States v. Conservation Chemical
14 Co., 628 F. Supp. at 402-03.

15 In short, the settlement should be approved because it
16 reflects concern for the problems for which Congress has enacted
17 the various environmental statutes; United States v. Seymour
18 Recycling Corp., 554 F. Supp. at 1338-41; United States v. Hooker
19 Chemical & Plastics Corp., 607 F. Supp. at 1057. The settlement
20 furthers Congress's intent in enacting CERCLA -- to have "the
21 parties responsible for hazardous conditions . . . perform the
22 abatement," Lone Pine Steering Committee v. Environmental
23 Protection Agency, 777 F.2d at 886, and the settlement will
24 produce "voluntary compliance by the parties over an extended
25 period [which] will contribute significantly toward ultimate
26 achievement of statutory goals," United States v. Hooker

27
28 GOVERNMENTS' MEMORANDUM
IN SUPPORT OF MOTION TO
ENTER CONSENT DECREE - 21

1 Chemical & Plastics Corp., 540 F. Supp. at 1072.

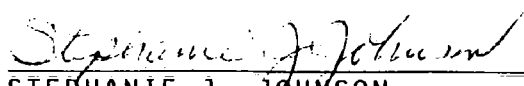
2 CONCLUSION

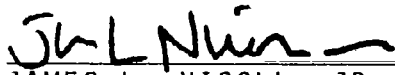
3 For the reasons above, the Court should enter the proposed
4 consent decree.

5 Respectfully submitted,


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9 United States Department of Justice

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36 GOVERNMENTS' MEMORANDUM
37 IN SUPPORT OF MOTION TO
38 ENTER CONSENT DECREE - 22

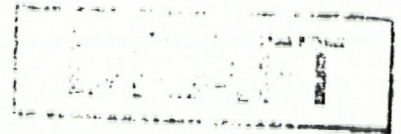
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GOVERNMENTS' MEMORANDUM
IN SUPPORT OF MOTION TO
ENTER CONSENT DECREE - 23

COLBERT



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received

11/10/87

m. Blum

ACCEPTANCE OF SERVICE

CLERK'S STAMP

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

THE STATE OF WASHINGTON
AND THE UNITED STATES OF
AMERICA ON BEHALF OF THE
U.S. ENVIRONMENTAL PROTECTION
AGENCY,

Plaintiffs,

v.

KEY TRONIC CORPORATION,
COUNTY OF SPOKANE, and THE
UNITED STATES DEPARTMENT
OF DEFENSE,

NO. xxx

CONSENT DECREE

Draft 11/9/87

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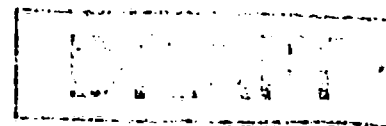


TABLE OF CONTENTS

1		
2	I. AGREEMENT OF PARTIES	3
3	II. JURISDICTION	4
4	III. DEFINITIONS	4
5	IV. PARTIES BOUND	6
6	V. GENERAL PRINCIPALS	6
7	VI. THE REMEDIAL ACTION	7
8	VII. PERFORMANCE OF WORK AND INSURANCE	9
9	VIII. INDEMNIFICATION	9
10	IX. DATA REPORTING/AVAILABILITY, SAMPLING	10
11	X. PROGRESS REPORTS	11
12	XI. OTHER REPORTS, PLANS AND OTHER ITEMS	12
13	XII. RETENTION OF RECORDS	13
14	XIII. DESIGNATED PROJECT MANAGERS	13
15	XIV. IMPLEMENTATION OF REMEDIAL ACTION	14
16	XV. TRUST FUND	15
17	XVI. PAYMENT OF COSTS	15
18	XVII. RESERVATION OF RIGHTS	16
19	XVIII. OTHER CLAIMS	17
20	XIX. COMPLIANCE WITH LAWS	17
21	XX. SITE ACCESS	18
22	XXI. ENDANGERMENT	18
23	XXII. EXTENSIONS OF SCHEDULE	20
24	XXIII. AMENDMENT OF CONSENT DECREE	22
25	XXIV. STIPULATED PENALTIES	23
26	XXV. DISPUTE RESOLUTION	24
27	XXVI. TRANSFER OF INTEREST IN PROPERTY	25
28	XXVII. COMMUNITY RELATIONS	25
29	XXVIII. COVENANT NOT TO SUE	27
30	XXIX. EFFECTIVE AND TERMINATION DATES	27
31	XXX. RETENTION OF JURISDICTION	27
32	XXXI. NOTICES	28
33	XXXII. LODGING OF DECREE WITH THE COURT AND PUBLIC COMMENT	28

I.

AGREEMENT OF PARTIES

The parties agree that:

A. The State of Washington and the United States of America are filing the complaint in this action simultaneously with the Consent Decree. The Plaintiffs in the complaint seek (1) an injunction requiring the Defendants to abate the release or threat of release of hazardous substances from the Site ("Site"), as hereafter defined, and to remedy hazardous conditions presented to the public health, welfare and the environment by the Site, and (2) reimbursement of response costs incurred or to be incurred by the United States or the State in connection with the Site;

B. The relief sought against the Defendants would require remedial actions as provided for in the Record of Decision ("ROD") signed on September 29, 1987 by the Regional Administration, Region 10, the United States Environmental Protection Agency;

C. The Defendants deny any legal or equitable liability under any statute regulation, ordinance or common law for damages caused by the generation, handling, storage, treatment, transportation, or disposal of hazardous substances at the Site;

D. This Consent Decree shall not be admissible in any judicial or administrative proceeding as proof of liability or an admission of any fact dealt with herein;

E. To accomplish the objectives set forth in this Consent Decree the parties have agreed that it is in the public interest and in the interest of the parties for this case to be resolved without

CONSENT DECREE

1 litigation, before the taking of any testimony and without the
2 admission of any issue of fact or law;

3 F. By entering into this Consent Decree, the parties do not
4 intend to discharge nonsettling persons from any liability they may
5 have with respect to matters alleged in the complaint; and

6 G. Plaintiffs and Defendants, by their representatives, have
7 agreed to this Consent Decree;

8 NOW, THEREFORE, it is ORDERED as follows:

9 II.

10 JURISDICTION

11 This Court has subject matter jurisdiction over this matter and
12 personal jurisdiction over the signatories consenting hereto. Each
13 signatory submits itself to the jurisdiction of the Court for all
14 matters relating to this Consent Decree.

15 III.

16 DEFINITIONS

17 The following definitions shall apply to this Consent Decree:

18 A. Colbert Landfill Site ("Site") means the Site located in
19 Spokane County, and described in the September 29, 1987 ROD. See
20 also Appendix A., The Site includes (1) the approximately 40-acre
21 landfill operated from 1968 to 1986; (2) any portions of abutting
22 properties that contain hazardous substances as a result of landfill
23 operations at the landfill. *The area over the plume on those adjacent properties*

24 B. CERCLA means the Comprehensive Environmental Response
25 Compensation and Liability Act, 42 U.S.C. § 9601 et seq., as
26 amended, also known as "Superfund."

27 CONSENT DECREE

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1 C. Consenting Defendants mean the corporations or other
2 entities, other than the United States of America on behalf of EPA
3 and the State of Washington, that are signatories to this Consent
4 Decree.

5 D. Department of Ecology ("Ecology" or "State") means the
6 State of Washington, Department of Ecology.

7 E. EPA means the United States Environmental Protection
8 Agency.

9 F. Hazardous Substance means any hazardous substance as
10 defined by CERCLA and dangerous waste, extremely hazardous waste and
11 hazardous substances as defined by state law. *RCRA hazardous waste?*

12 G. Governments means the State of Washington and the United
13 States of America on behalf of EPA, acting alone or together.

14 H. National Contingency Plan ("NCP") means the plan
15 promulgated pursuant to CERCLA and codified at 40 CFR Part 300 et
16 seq., as amended.

17 I. Parties means all parties who are signatories to the
18 Consent Decree.

19 J. Remedial Action means all activities and work required
20 under the Consent Decree.

21 K. RCRA means the Resource Conservation and Recovery Act, 42
22 U.S.C. §§ 6901 et seq.

23 L. Toxic Control Act means Washington Laws of 1987 Chapter 2,
24 3rd Ex. Session, (S.B. 6085).

25

26

27 CONSENT DECREE

CONFIDENTIAL

1 IV.

2 PARTIES BOUND

3 This Consent Decree shall apply to and be binding upon the
4 signatories, their successors and assigns. The undersigned
5 representative of each party certifies that he or she is fully
6 authorized to enter into the terms and conditions of this Consent
7 Decree and to execute and legally bind such party to this document.
8 The Defendants shall provide a copy of this Consent Decree to each
9 contractor or subcontractor retained to perform work contemplated by
10 this Consent Decree and shall condition any contract for such work
11 on compliance with this Consent Decree.

12 V.

13 GENERAL PRINCIPALS

14 A. The Appendices to this Consent Decree and their
15 Attachments are a part of this Decree, and the plans and schedules
16 prepared as required in Appendix B and attachments thereto shall,
17 upon their approval by the Governments, be incorporated in the Decree.

18 B. Except as provided in Section XXVIII (Covenant Not to Sue)
19 nothing in this Consent Decree shall be deemed to limit the response
20 authority of the Governments under Section 104 of CERCLA, 42 U.S.C.
21 § 9604 under Section 106 of CERCLA, 42 U.S.C. § 9606, under the
22 Toxic Control Act, or under any other federal or state response
23 authority.

24
25
26

VI.

THE REMEDIAL ACTION

A. The Consenting Defendants shall finance and perform the Remedial Action in accordance with the Consent Decree, including the Scope of Work attached as Appendix B. In the event of the insolvency or other inability of any one or more of the Consenting Defendants to implement the requirements of this Consent Decree, the remaining Consenting Defendants shall complete all such requirements.

B. The Scope of Work to be performed by the Consenting Defendants at and about the Site is attached to this Consent Decree as Appendix B and is herein incorporated by reference in its entirety. The Scope of Work requires that the Consenting Defendants submit plans for approval by the Governments and implement such plans after receiving Governmental approval. All such approved plans shall become a part of this Decree, and this Decree shall be so amended upon and by the filing of approved plans with the Court. The Scope of Work to be performed at the Site includes, inter alia: *but not limited to*

1. Expansion of Whitworth Water District system to allow hookups to the alternate water supply system;

2. Additional monitor wells installed and sampled to define plume(s) boundaries;

3. Preliminary selection of types of treatment system to be constructed;

4. Treatability studies for the contaminated water based on the selected treatment method, if necessary;

DR

- 1 5. Preliminary design;
- 2 6. Final design (plans and specifications);
- 3 7. Construction of the extraction wells, treatment
- 4 system, and discharge structure(s);
- 5 8. Operation and maintenance manual, (draft and final);
- 6 9. Operation and maintenance of the system;
- 7 10. ^{Installation of necessary ~~new~~ system monitoring wells} Monitoring program for test wells;
- 8 *Verify performance criteria* 11. Monitoring program for homeowner wells;
- 9 12. Pump tests for extraction wells;
- 10 13. Development and implementation of institutional
- 11 controls to limit and/or ban new well drilling within the
- 12 contaminated area;
- 13 14. Closure of the landfill.

14 C. The Remedial Action shall be subject to review and approval
15 by the Governments. The Remedial Action shall be designed, imple-
16 mented and completed in accordance with the National Contingency Plan
17 (NCP) in effect on the effective date of this Consent Decree and with
18 the standards, specifications, and schedule of completion set forth
19 in Appendix B and Attachments and the plans and schedules developed
20 in accordance therewith.

21 D. The Governments and the Consenting Defendants agree that
22 the work, or the work as modified in accordance with Section XXII
23 (Extension of Schedules) or the Court, is consistent with the NCP and
24 that the amounts paid by the Consenting Defendants to perform the
25 work are necessary costs of response.

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VII.

PERFORMANCE OF WORK AND INSURANCE

A. The Consenting Defendants shall be jointly and severally responsible for their performance and completion of the Remedial Action, and they shall assume all liability arising out of or relating to the acts or omissions of the Consenting Defendants, their contractors, consultants, or agents in the performance of the work or failure to fully perform or complete the work.

B. The Consenting Defendants shall cause to be purchased and maintained in force insurance policies which shall fully protect the Governments and the public against all liability arising out of the acts or omissions of the Consenting Defendants, their contractors, consultants, or agents in the performance of the work. The insurance policies shall contain coverage of the types and the amounts shown in Appendix C hereto.

VIII.

INDEMNIFICATION

The Consenting Defendants agree to indemnify and save and hold the Governments, their agents and employees harmless from any and all claims or causes of action for death or injuries to persons or for loss or damage to property arising from or on account of acts or omissions of the Consenting Defendants, its officers, employees, agents, or contractors in entering into and implementing this Decree; provided, however, that the Consenting Defendants shall not indemnify the Governments nor save nor hold its employees and agents harmless

1 from any claims or causes of action arising out of the acts or omis-
2 sions of the Governments, or the employees and agents of the Govern-
3 ments in implementing the activities pursuant to this Decree.

4 IX.

5 DATA REPORTING/AVAILABILITY, SAMPLING

6 The Consenting Defendants shall make the results of all sampling,
7 laboratory reports, and/or test results generated by the Consenting
8 Defendants, or on the Consenting Defendant's behalf, with respect to
9 the implementation of this Consent Decree available to the Govern-
10 ments and shall submit these results in progress reports submitted in
11 accordance with Section X (Progress Reports) herein.

12 At the request of the Governments, the Consenting Defendants
13 shall allow split or duplicate samples to be taken by the Governments
14 and/or its authorized representatives of any samples collected by
15 Consenting Defendants pursuant to the implementation of this Consent
16 Decree. The Consenting Defendants shall notify the Governments at
17 least five (5) working days in advance of any sample collection
18 activity. The Governments shall allow split or duplicate samples to
19 be taken by the Consenting Defendants or its authorized representa-
20 tives of any samples collected by the Governments pursuant to the
21 implementation of this Consent Decree. The Governments shall notify
22 the Consenting Defendants at least five (5) working days prior to any
23 sample collection activity.

X.

PROGRESS REPORT

A. The Consenting Defendants shall provide or cause their contractors or agents to provide written reports to the Governments on a monthly basis from the entry of this Consent Decree until all the requirements of this Consent Decree have been implemented. These progress reports shall describe the actions that have been taken toward achieving compliance with this Consent Decree, including a general description of Remedial Action activities commenced or completed during the reporting period, Remedial Action activities projected to be commenced or completed during the next reporting period, and any problems that have been encountered or are anticipated by the Consenting Defendants in commencing or completing the activities. The monthly progress reports are to be submitted to the Governments by the 10th of each month for work done the preceding month and planned for the current month.

B. If a progress report is deemed to be incomplete or otherwise deficient, the Governments shall notify the Consenting Defendants within twelve (12) work days of receipt of such progress report by the Governments. The notice shall include a description of the deficiencies. The Consenting Defendants or their contractors or agents shall make the necessary changes and resubmit the progress report with the next progress report to the Governments.

C. If the Governments determine that a resubmittal progress report is deficient, then, subject to the Dispute Resolution in

1 procedures of Section XXV, the Consenting Defendants shall be deemed
2 to be out of compliance with this Consent Decree.

3 XI.

4 OTHER REPORTS, PLANS AND OTHER ITEMS

5 A. The Consenting Defendants shall provide ten copies to EPA
6 and five copies to Ecology of any item described as "deliverables"
7 in the work plans and Scope of Work according to the schedule set
8 forth therein.

9 B. If the Governments disapprove any plans, reports (other
10 than monthly progress reports covered by Section X, above) or other
11 items required to be submitted to the Governments for approval
12 pursuant to this Consent Decree, then the Consenting Defendants shall
13 have thirty (30) days from the receipt of such disapproval to correct
14 any deficiencies and resubmit the plan, report or item for Govern-
15 mental approval.

16 C. Any disapproval by the Governments shall include an
17 explanation of why the plan, report or item is being disapproved.

18 D. The Consenting Defendants must address each of the Govern-
19 ments' comments and resubmit to the Governments the previously dis-
20 approved plan, report or item with the required changes within the
21 deadline set in Paragraph B, above.

22 E. If any plan, report, or item cannot be approved by the
23 Governments after two resubmissions, then, subject to the Dispute
24 Resolution procedures of Section XXV, the Consenting Defendants
25 shall be deemed to be out of compliance with this Consent Decree.

XII.

RETENTION OF RECORDS

The Consenting Defendants shall preserve, during the pendency of this Consent Decree and for ten (10) years from the date of termination of this Consent Decree, all records, reports, documents, and underlying data in its possession, or in the possession of its employees, agents, or contractors relevant to the implementation of this Consent Decree, unless otherwise ordered by the Court. Any party to this Consent Decree may have access to such documents. Notwithstanding any other provision of this Consent Decree, the Governments and the Consenting Defendants retain any rights they may otherwise have governing the production of such records and documents.

XIII.

DESIGNATED PROJECT MANAGERS

A. Ecology's project manager is Mike Blum. EPA's project manager is ^{Keith Rose} Neil Thompson. The Consenting Defendants project manager is _____. Each project manager shall be responsible for overseeing the implementation of this Consent Decree. The Governments' project managers will be the Governments' designated representatives at the Site. To the maximum extent possible, communications between the Defendants and the Governments, and all documents, including reports, approvals, and other correspondence concerning the activities performed pursuant to the terms and conditions of this Consent Decree, shall be directed through the project managers.

Any party may change its respective project manager by notifying the other party^(s) in writing, at least ten (10) calendar days prior to the change.

B. The Governments' project managers will observe and monitor the progress of the Remedial Action being performed pursuant to this Consent Decree. The project managers shall have the authority vested by 40 CFR § 300 et seq., and other applicable federal laws and regulations. The project managers do not have the authority to modify in any way the terms of this Consent Decree.

XIV.

IMPLEMENTATION OF REMEDIAL ACTION

In the event that the Governments determines that the Consenting Defendants have failed without good cause to implement the Remedial Action, the Governments may, after notice to the Consenting Defendants and consistent with the Dispute Resolution procedures of Section XXV, perform any or all portions of the Remedial Action that remain incomplete. If the Governments perform all or portions of the Remedial Action because of the Consenting Defendants' failure to comply with their obligations under this Consent Decree, the Consenting Defendants shall reimburse the Governments for the costs of doing such work within thirty (30) days of receipt of demand for payment of such costs, provided that the Consenting Defendants are not obligated under this section to reimburse the Governments for costs incurred for work inconsistent with or beyond the scope of the Remedial Action. In any proceeding for costs under this section, the Consenting Defendants shall have the burden of proving that costs claimed by the

1 Governments were for work inconsistent with or beyond the scope of
2 the Remedial Action.

3 XV.

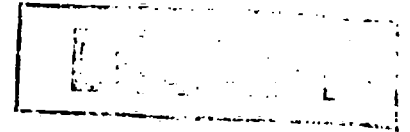
4 TRUST FUND

11 XVI.

12 PAYMENT OF COSTS

13 A. State Costs

14 The Consenting Defendants agree to reimburse the appropriate
15 account of the Treasury of the State of Washington, as identified by
16 Ecology, for Ecology's reasonable and appropriate costs associated
17 with Ecology's activities at the Site conducted during the implementa-
18 tion of this Consent Decree. Within ninety (90) days of the end of
19 each fiscal quarter, Ecology will submit to the Consenting Defendants
20 an itemized statement of Ecology's expenses for the previous quarter.
21 Following receipt of the itemized statement, the Consenting Defend-
22 ants shall pay, within ninety (90) days, into the appropriate account
23 of the Treasury of the State of Washington, as identified by Ecology,
24 the required sum.



1 Within ninety (90) days of the entry of this Consent Decree, the
2 Consenting Defendants shall pay the State \$ _____ as reimbursement
3 for past costs incurred by the State.

4 B. Federal Costs

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XVII.

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RESERVATION OF RIGHTS

13 A. Notwithstanding compliance with the terms of this Consent
14 Decree, including completion of a Governments approved Remedial
15 Action, Consenting Defendants are not released from any liability, if
16 any, for costs of any removal or remedial actions outside the terms
17 of this Consent Decree taken by the Governments with respect to the
18 Site. The Governments reserve the right to take any action outside
19 the terms of this Consent Decree pursuant to CERCLA or any other
20 legal authority, including the right to seek injunctive relief,
21 statutory penalties, and punitive damages.

22 Consenting Defendants, EPA, and Ecology expressly reserve all
23 rights and defenses that they may have, including the Government's
24 right both to disapprove of work performed by Consenting Defendants

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26

27 CONSENT DECREE

1 and to require that Consenting Defendants perform tasks in addition
2 to those specified in the work plans of Scope of Work. In the event
3 that Consenting Defendants fail or refuse to perform any tasks in
4 accordance with the standards, specifications, and schedules speci-
5 fied in the work plans or Scope of Work the Governments may undertake
6 such tasks. In addition, the Governments reserve the right to seek
7 damages in exoneration/reimbursement from each and every Consenting
8 Defendant or any other person for such costs incurred by the
9 Governments.

10 XVIII.

11 OTHER CLAIMS

12 Nothing in this Consent Order shall constitute or be construed
13 as a release from any claim, cause of action or demand in law or
14 equity against any person, firm partnership, corporation, or state
15 or local governmental entity not a signatory to this Consent Order
16 for any liability it may have arising out of or relating in any way
17 to the generation, storage, treatment, handling, transportation,
18 release, or disposal of any hazardous substances, hazardous wastes,
19 pollutants, or contaminants found at, taken to, or taken from the
20 Site. This Consent Order does not preauthorize or constitute any
21 decision or preauthorization of funds under 42 U.S.C. § 9611(a)(2).

22 XIX.

23 COMPLIANCE WITH LAWS

24 All actions carried out by the Consenting Defendants pursuant to
25 the Consent Decree shall be done in accordance with all applicable
26 federal, state and local requirements.

27 CONSENT DECREE

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XX.

SITE ACCESS

The Governments or any authorized representative of the Governments shall have the authority to enter and freely move about all property at the Site at all reasonable times for the purposes of, inter alia: inspecting records, operation logs, and contracts related to the Site; reviewing the progress in carrying out the terms of this Consent Decree; conducting such tests or collecting samples as the Governments or the project managers may deem necessary; using a camera, sound recording, or other documentary type equipment to record work done pursuant to this Consent Decree; and verifying the data submitted to the Governments by the Defendants. The Governments shall split any samples taken during an inspection unless the Consenting Defendants fails to make available a representative for the purpose of splitting samples. The Consenting Defendants shall allow such persons to inspect and copy all records, files, photographs, documents, and other writings including all sampling and monitoring data, in any way pertaining to work undertaken pursuant to this Consent Decree. All parties with access to the Site pursuant to this section shall comply with approved health and safety plans.

XXI.

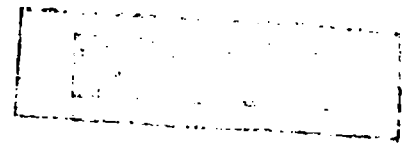
ENDANGERMENT

In the event the Governments determine or concur in a determination by another local, state, or federal agency that activities implementing or in noncompliance with this Consent Decree, or

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1 any other circumstances or activities, are creating or have the
2 potential to create a danger to the health or welfare of the people
3 on the Site or in the surrounding area or to the environment, the
4 Governments may order the Consenting Defendants to stop further imple-
5 mentation of this Consent Decree for such period of time as needed to
6 abate the danger. During any stoppage of work under this section,
7 the Consenting Defendant's obligations with respect to the work
8 ordered to be stopped shall be suspended and the time periods for
9 performance of that work, as well as the time period for any other
10 work dependent upon the work which stopped, shall be extended, pur-
11 suant to Section XXII (Extension of Schedules) of this Consent Decree,
12 for such period of time as the Governments determine is reasonable
13 under the circumstances.

14 In the event the Consenting Defendants determine that activities
15 undertaken in furtherance of this Consent Decree or any other circum-
16 stances or activities are creating an imminent and substantial endanger-
17 ment to the people on the Site or in the surrounding area or to the
18 environment, the Consenting Defendants may stop implementation of
19 this Consent Decree for such periods of time necessary for the Govern-
20 ments to evaluate the situation and determine whether the Consenting
21 Defendants should proceed with implementation of the Consent Decree
22 or whether the work stoppage should be continued until the danger is
23 abated. The Consenting Defendants shall notify the Governments'
24 project managers as soon as is possible, but no later than twenty-four
25 (24) hours after such stoppage of work, and provide the Governments
26



1 with documentation of its analysis in reaching this determination.
2 If the Governments disagrees with the Consenting Defendants' deter-
3 mination, it may order the Consenting Defendants to resume implementa-
4 tion of this Consent Decree. If the Governments concur in the work
5 stoppage, the Defendants' obligations shall be suspended and the time
6 periods for performance of that work, as well as the time period for
7 any other work dependent upon the work which was stopped, shall be
8 extended, pursuant to Section XXII (Extension of Schedules) of this
9 Consent Decree, for such period of time as the Governments determine
10 is reasonable under the circumstances. Any disagreements pursuant to
11 this clause shall be resolved through the dispute resolution procedures.

12 XXII.

13 EXTENSIONS OF SCHEDULES

14 A. An extension shall be granted only when a request for an
15 extension is submitted in a timely fashion and good cause exists for
16 granting the extension. All extensions shall be requested in
17 writing. The request shall specify the reason(s) the extension is
18 needed. An extension shall only be granted for such period of time
19 as the Governments determines is reasonable under the circumstances.
20 A requested extension shall not be effective until approved by the
21 Government in writing. The Governments shall act upon all written
22 requests for extension in a timely fashion. It shall not be
23 necessary to formally amend this decree pursuant to Section XXIII
24 when a schedule extension is granted.

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26

27 CONSENT DECREE

1 B. The burden shall be on the Consenting Defendants to
2 demonstrate to the satisfaction of the Governments that the request
3 for the extension has been submitted in a timely fashion and that
4 good cause exists for granting the extension. Good cause may include,
5 but not be limited to, the following:

6 (1) Circumstances beyond the reasonable control and despite
7 the due diligence of the Consenting Defendants including delays
8 caused by unrelated third parties or the Governments, such as delays
9 by the Governments in reviewing, approving, or modifying documents
10 submitted by the Defendants;

11 (2) Acts of God, fire, flood, blizzard, extreme temperatures,
12 or other unavoidable casualty; and

13 (3) Endangerment as described in Section XXI.

14 However, neither increased costs of performance of the terms of
15 the Consent Decree nor changed economic circumstances may be
16 considered circumstances beyond the reasonable control of the
17 Consenting Defendants.

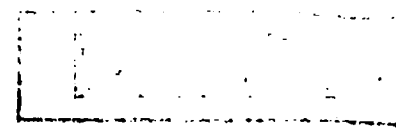
18 C. In addition, the Governments may extend the time schedules
19 contained in the Consent Decree if an extension is needed as a
20 result of:

21 (1) Other circumstances deemed exceptional or extraordinary by
22 the Governments; or

23 (2) Endangerment as described in Section XXI.

24 The Governments shall give the Consenting Defendants written
25 notice in a timely fashion of any extensions granted pursuant to the
26 Decree.

27 CONSENT DECREE



XXIII.

AMENDMENT OF CONSENT DECREE

This Consent Decree may only be amended by a written stipulation among all the parties to this Consent Decree that is entered by the Court. Such amendment shall become effective upon entry by the Court. Agreement to amend shall not be unreasonably withheld by any party to the Consent Decree.

The Consenting Defendants shall submit any request for modifications to the remedial program or project schedule to the Government for approval. The Governments shall indicate their approval or disapproval of these in a timely manner after the request for modification is received. Reasons for the disapproval shall be stated in writing. If the Governments do not agree to any proposed modification, the disagreement may be addressed through the dispute resolution procedures described in Section XXV of this Consent Decree.

No guidance, suggestions, or comments by the Governments will be construed as relieving the Consenting Defendants of their obligation to obtain formal approval as may be required by this Consent Decree. No verbal communication by the Governments shall relieve the Consenting Defendants of the obligation specified herein.

The Governments shall notify the Consenting Defendants in writing of any Governmental proposal for modifications to the remedial program or project schedule and the basis for such proposal. The Consenting Defendants shall thereafter comply with such modifications, or if it

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1 does not agree with those modifications, the disagreement shall be
2 addressed through the dispute resolution procedures described in
3 Section XXV of this Consent Decree.

4 XXIV.

5 STIPULATED PENALTIES

6 A. For each day the Consenting Defendants fails to make a *submittal*
7 submittal to the Governments in accordance with this Consent Decree
8 or comply with any time schedules contained in this Consent Decree or
9 any other time schedule approved in writing by the Governments, or
10 otherwise fail to comply with this Consent Decree, the Consenting
11 Defendants stipulate and agree that they shall, at the Governments'
12 discretion, be obligated to pay a civil penalty in an amount of up to
13 twenty five thousand dollars (\$25,000).

14 B. The Consenting Defendants shall not be liable for payment
15 under this section if it has ^{been} submitted a timely request to the Govern-
16 ments for an extension of schedules under Section XXII of this Consent
17 Decree and such request has been granted.

18 C. Upon determination by the Governments that the Consenting
19 Defendants have failed to make a submittal referenced herein or has
20 otherwise failed to comply with this Consent Decree, the Governments
21 shall immediately give written notice to the Consenting Defendants of
22 the failure, specifying the provision of the Consent Decree which has
23 not been complied with and specifying the amount of the civil penalty
24 due pursuant to Paragraph XXIV.A. The Consenting Defendants shall
25 pay the civil penalty within sixty (60) days of receipt of notifica-
26 tion from the Governments.

27 CONSENT DECREE

1 D. Payments required by this Section shall accrue from the
2 date on which the submittal was to have been made. Payments
3 required by this Section shall cease to accrue when the Consenting
4 Defendants deliver the required submittal to the Governments.

5 E. Any disagreement over the factual basis for issuance of a
6 penalty under this Section shall be resolved through the dispute
7 resolution clause. Any penalty issued pursuant to this Section shall
8 not be appealable to the State of Washington Pollution Control
9 Hearings Board.

10 XXV.

11 DISPUTE RESOLUTION

12 A. If the Consenting Defendants object to any Governmental
13 notice of disapproval, proposed modification, or decision made pur-
14 suant to this Consent Decree, it shall notify the Governments in
15 writing of its objections within fourteen (14) calendar days of
16 receipt of such notice. Thereafter, the parties shall confer in an
17 effort to resolve the dispute. If agreement cannot be reached on the
18 dispute within ²⁰fourteen (14) calendar days after receipt by the
19 Governments of such objections or a longer period of time agreed upon
20 by all parties, the Governments shall promptly provide a written
21 statement of its decision to the Consenting Defendants.

22 Implementation of these dispute resolution procedures shall not
23 provide a basis for delay of any activities required in this Consent
24 Decree, unless Ecology and EPA agree in writing to a schedule exten-
25 sion. Delay caused by formal dispute resolution in which the Govern-
26

1 | ments prevail shall not constitute a circumstance beyond the control
2 | of the Consenting Defendants for purposes of being excused from pay-
3 | ment of stipulated penalties under Section XXIV.

4 | XXVI.

5 | TRANSFER OF INTEREST IN PROPERTY

6 | No conveyance of title, easement, or other interest in any
7 | portion of the Site owned by the Consenting Defendants shall be con-
8 | summated without provision for continued operation and maintenance of
9 | any containment system, treatment system, and monitoring system
10 | installed or implementation of that pursuant to this Consent Decree.

11 | Prior to transfer of any legal or equitable interest in all or
12 | any portion of the property, the Consenting Defendants shall serve a
13 | copy of this Consent Decree upon any prospective purchaser, lessee,
14 | transferee, assignee, or other successor in interest of the property
15 | and, at least thirty (30) days prior to any transfer, shall notify
16 | the Government of said contemplated transfer.

17 | Within thirty (30) days after entry of the Consent Decree the
18 | Consenting Defendants shall cause to be recorded in the appropriate
19 | registry of deeds a notice and a copy of this Consent Decree with the
20 | deeds for its property at the Site, and shall verify to the Govern-
21 | ments that such recording has been completed.

22 | XXVII.

23 | COMMUNITY RELATIONS

24 | The Governments shall maintain the responsibility for community
25 | relations at the Site. However, the Consenting Defendants shall
26 | cooperate with the Governments and shall:

CONFIDENTIAL

1 A. Prepare drafts of public notices and fact sheets at
2 important stages of the remedial action, such as the submission of
3 work plans and the completion of engineering design. The Governments
4 will finalize and distribute such fact sheets and prepare and
5 distribute public notices of the Governments' presentations and
6 meetings;

7 B. Notify and coordinate with the Governments' project
8 managers prior to all press releases and fact sheet preparation, and
9 before major meetings with the interested public and local govern-
10 ment;

11 C. Participate in public presentations on the progress of
12 Remedial Action at the Site. Participation may be through attendance
13 at public meetings to assist in answering questions or as a presenter;

14 D. In cooperation with the Governments, continue the
15 information repositories at the City of Spokane libraries and the
16 Department of Ecology and EPA Regional libraries. At a minimum,
17 copies of all public notices, fact sheets, and press releases, all
18 quality assured groundwater, surface water, soil sediment, and air
19 monitoring data, Remedial Action plans, supplemental remedial plan-
20 ning documents, and all other similar documents relating to perform-
21 ance of these remedial actions shall be promptly placed in these
22 repositories; and

23 E. Participate in public presentations on the conditionally
24 required actions, if any are initiated. Public presentations shall
25 at a minimum be made during the design or scoping of the study and
26 again when the study is completed.

XXVIII.

COVENANT NOT TO SUE

XXIX.

EFFECTIVE AND TERMINATION DATES

A. This Consent Decree shall be effective upon the date of its entry by the Court.

B. Termination of this Consent Decree may only be effected upon completion of all Remedial Action activities, reimbursement of Governments costs and resolution of any outstanding disputes pursuant to this Decree. Termination of this Consent Decree shall not affect the Covenant Not to Sue, Section XXVIII, which shall remain in effect as an agreement between the parties.

XXX.

RETENTION OF JURISDICTION

This Court shall retain jurisdiction over this matter for the purposes of interpreting, implementing, modifying, enforcing or terminating the terms of this Consent Decree, and of adjudicating disputes between the parties under this Consent Decree.

SECRET

XXXI.

NOTICES

Whenever, under the terms of this Consent Decree, written notice is required to be given or a report or other document is required to be given or a report or other document is required to be forwarded by one party to another it shall be directed to the individuals specified below unless those individuals or their successors give notice in writing to the other parties.

As to the Government:

Mike Blum
Department of Ecology
Hazardous Waste Cleanup Program
Mail Stop PV-11
Olympia, WA 98504-8711

Neil Thompson *Kathy Row*
EPA Region 10
Superfund Section
~~Superfund Group~~ - HW-113
1200 Sixth Avenue
Seattle, WA 98101

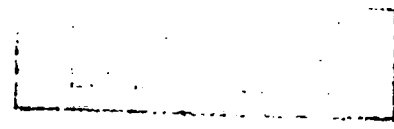
As to the Defendants:

XXXII.

LODGING OF DECREE WITH THE COURT AND PUBLIC COMMENT

This Consent Decree shall be lodged with the Court for a period of 30 days for public comment pursuant to the provisions of 28 CFR § 50.7 and section 7(5) of the Toxic Control Act, and it shall not be

CONSENT DECREE



1 submitted to the Court for execution until the expiration of that
2 period. The Governments reserve the right to withdraw or withhold
3 its consent to a judgment based on this Consent Decree if the com-
4 ments, views and allegations concerning the Consent Decree disclose
5 facts or considerations which indicate that the Consent Decree is
6 inappropriate, improper or inadequate.

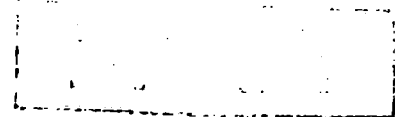
7 Comments on the Consent Decree shall be submitted to:
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20 The State of Washington, the United States and the Consenting
21 Defendants by their duly authorized representatives agree to this
22 Consent Decree subject to the public notice requirements found at 28
23 CFR § 50.2 and Section 7(5) of the Toxics Control Act.
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27 CONSENT DECREE

The State of Washington

The United States of America for EPA



The County of Spokane

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Key Tronic, Incorporated

27 CONSENT DECREE

The United States of America for
the Department of Defense

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CONSENT DECREE

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6 UNITED STATES DISTRICT COURT
7 EASTERN DISTRICT OF WASHINGTON8 THE STATE OF WASHINGTON,)
9 DEPARTMENT OF ECOLOGY)
10 AND THE UNITED STATES OF)
11 AMERICA ON BEHALF OF THE)
12 U.S. ENVIRONMENTAL PROTECTION)
13 AGENCY,)

14 Plaintiffs,)

15 v.)

16 COUNTY OF SPOKANE AND)
17 KEY TRONIC CORPORATION,)
18)19 Defendants.)
20
21
22

NO.

CONSENT DECREE

Draft
6/24/88

KENNETH O. EIKENBERRY, ATTORNEY GENERAL

Assistant Attorney General

Wa.

Telephone

TABLE OF CONTENTS

1			
2	I.	AGREEMENT OF PARTIES	1
3	II.	JURISDICTION AND VENUE	3
8	III.	STATEMENT OF FACTS	3
4	IV.	DEFINITIONS.	7
5	V.	PARTIES BOUND.	10
6	VI.	GENERAL PRINCIPLES	10
7	VII.	THE REMEDIAL ACTION.	11
8	VIII.	OBLIGATIONS OF CONSENTING PARTIES.	13
9	IX.	INDEMNIFICATION.	13
10	X.	DATA REPORTING/AVAILABILITY, SAMPLING.	14
11	XI.	PROGRESS REPORTS	15
12	XII.	OTHER REPORTS, PLANS AND OTHER ITEMS	16
13	XIII.	RETENTION OF RECORDS	18
14	XIV.	DESIGNATED PROJECT MANAGERS.	18
15	XV.	IMPLEMENTATION OF REMEDIAL ACTION.	19
16	XVI.	FINANCIAL ASSURANCES	20
17	XVII.	PAYMENT OF COSTS	20
18	XVIII.	TRUST FUND	23
19	XIX.	RESERVATION OF RIGHTS.	23
20	XX.	OTHER CLAIMS	25
21	XXI.	COMPLIANCE WITH LAWS	26
22	XXII.	SITE ACCESS.	27
23	XXIII.	ENDANGERMENT	28
24	XXIV.	EXTENSIONS OF SCHEDULE	30
25	XXV.	AMENDMENT OF CONSENT DECREE.	31
26	XXVI.	STIPULATED PENALTIES	32
27	XXVII.	DISPUTE RESOLUTION	34
	XXVIII.	TRANSFER OF INTEREST IN PROPERTY	36
	XXIX.	COMMUNITY RELATIONS.	37
	XXX.	COVENANT NOT TO SUE.	38
	XXXI.	EFFECTIVE AND TERMINATION DATES.	41
	XXXII.	RETENTION OF JURISDICTION.	41
	XXXIII.	NOTICES.	42
	XXXIV.	LODGING OF DECREE WITH THE COURT AND PUBLIC COMMENT.	43

I.

AGREEMENT OF PARTIES

The parties agree that:

A. The State of Washington and the United States of America are filing the complaint in this action simultaneously with the Consent Decree. The Plaintiffs in the complaint seek (1) an injunction requiring the Defendants to abate the release or threat of release of hazardous substances from the Site ("Site"), as hereafter defined, and to remedy hazardous conditions presented to the public health, welfare and the environment by the Site, and (2) reimbursement of response costs incurred or to be incurred by the United States or the State in connection with the Site as reduced by the the mixed funding to be provided by the Government as provided in Section XVII;

B. The relief sought against the Defendants would require remedial actions as provided for in the Record of Decision ("ROD") signed on September 29, 1987 by the Regional Administration, Region 10, the United States Environmental Protection Agency;

C. The Defendants deny any legal or equitable liability under any statute regulation, ordinance or common law for damages caused by the generation, handling, storage, treatment, transportation, or disposal of hazardous substances at the Site;

D. This Consent Decree, the entry hereof, and compliance herewith shall not be admissible in any judicial or administrative proceeding and shall not be an admission of any fact dealt with herein or an admission of liability for any purpose; the Consenting

CONSENT DECREE

Parties retain the right to controvert in any subsequent proceeding, other than in proceedings to enforce this Consent Decree, the validity of or the responsibility for any of the factual or legal determinations made herein;

E. To accomplish the objectives set forth in this Consent Decree the parties have agreed that it is in the public interest and in the interest of the parties for this case to be resolved without litigation, before the taking of any testimony and without the admission of any issue of fact or law;

F. The obligations of Key Tronic Corporation under this Consent Decree and with respect to remedial action at the Colbert Landfill Site are limited to tender of the payments specified under Paragraph A of Section VIII consistent with Sections XIX, XXV, and XXX. The obligations of the United States Air Force are dealt with pursuant to a separate consent agreement with the Government Plaintiffs.

G. As provided in Section 113(f) of CERCLA, 42 U.S.C. § 9613(f) and RCW 70.105B.070(6), Key Tronic and the County shall not be liable for claims for contribution regarding matters addressed in this Consent Decree;

H. By entering into this Consent Decree, the parties do not intend to discharge nonsettling persons from any liability they may have with respect to matters alleged in the complaint; and

I. Plaintiffs and Defendants, by their representatives, have agreed to this Consent Decree;

NOW, THEREFORE, it is ORDERED as follows:

CONSENT DECREE

-2-

1 II.

2 JURISDICTION AND VENUE

3 A. This Court has subject matter jurisdiction over this matter
4 pursuant to 28 U.S.C. §§ 1331 and 1345, 42 U.S.C. §§ 6901 et seq.,
5 42 U.S.C. §§ 9601 et seq., ch. 70.105 RCW, Ch. 90.48 RCW, and
6 Ch. 70.105B RCW and personal jurisdiction over the signatories con-
7 senting hereto. Each signatory submits itself to the jurisdiction of
8 the Court for all matters relating to this Consent Decree.

9 B. The parties stipulate that venue in this court is proper
10 pursuant to 42 U.S.C. § 9613(b) and request that a single judge be
11 assigned to decide all issues arising out of this Consent Decree.

12 C. The parties further stipulate that, by agreeing to the
13 exercise of pendent jurisdiction over issues arising under state
14 law, no rights or claims which may be available to the County and
15 Key Tronic under the Hazardous Waste Cleanup Act are waived and such
16 rights may be adjudicated by this Court or, if this Court declines
17 jurisdiction, the appropriate state court.

18 III.

19 STATEMENT OF FACTS

20 The Colbert Landfill is a Spokane County-owned sanitary landfill
21 that was operated from 1968 through 1986. The Colbert area is in
22 northeastern Washington, in Spokane County, approximately 15 miles
23 north-northeast of Spokane, Washington. The landfill covers 40 acres
24 and is located about 2.5 miles north of the Town of Colbert and a
25 half mile east of U.S. Highway 2 (Newport Highway) in the northwestern
26 quadrant of the intersection of Elk-Challaroy, Yale, and Big Meadows

27 CONSENT DECREE

Roads. It is situated in the southeast corner of Section 3, Township 27 North, Range 43 East, W.M., see Appendix A. The landfill received both municipal and commercial wastes up to 1986. It is now filled to capacity, and is no longer receiving waste.

The remedial action site, the area of potential impact surrounding the landfill, extends north of the landfill about a half mile, west about a mile to the Little Spokane River, east a similar distance, and south approximately five miles to Peone (or Deadman) Creek. The total area is approximately 6,800 acres which includes parts of Sections 2, 3, 10, 11, 14, 15, 16, 21, 22, 23, 26, 27, 28, 33, 34, and 35 of the same township and range. The site is entirely within the drainage basin of the Little Spokane River, mainly on a plateau bounded by bluffs down to the river on the west and knobby granite and basalt hills to the east.

Colbert Landfill had been operated as a sanitary landfill by the Spokane County Utilities Department since it was opened in September 1968 to its cessation of operations in October 1986. During the five years from 1975 to 1980, a local electronics manufacturing company, Key Tronic Corporation, used the Colbert landfill to dispose of spent organic solvents, mainly methylene chloride (MC) and 1,1,1-trichloroethane (TCA). Hazardous substances detected in ground water at the Site were also disposed of by a variety of other persons, including Alumax Irrigation Products, A&M Manufacturing and United Paint, Inc. During the same period a nearby military facility, Fairchild Air Force Base, also disposed of various solvent wastes at

1 the site. A variety of other chemicals (such as pesticides and
2 refinery tar residues) from other sources were also disposed at the
3 site but have not, to date, been detected in the groundwater at the
4 site.

5 In 1980 nearby residents complained to the Eastern Regional
6 Office of the Washington Department of Ecology (Ecology) about these
7 disposal practices. State and county officials, under the lead of
8 the Spokane County Utilities Department, initiated an investigation
9 into complaints of groundwater contamination in the area by sampling
10 nearby private wells of which some were found to be contaminated with
11 TCA. Subsequently, the County and Key Tronic instituted and continued
12 a well sampling plan to protect the interests of local residents.

13 In the following years, a number of studies have been directed
14 toward the contamination problem at the Colbert Landfill. The original
15 investigation, which was initiated in response to citizen complaints,
16 was conducted by George Maddox and Associates.

17 The United States Environmental Protection Agency ("EPA"),
18 pursuant to Section 105 of the Comprehensive Environmental Response,
19 Compensation, and Liability Act of 1980 ("CERCLA"), 42 U.S.C. §
20 9605, placed the Colbert Landfill Site in August, 1983 (the "Site"
21 as specifically defined in Section IV of this Consent Decree) on the
22 National Priorities List, which is set forth at 40 C.F.R. Part 300,
23 Appendix by publication in the Federal Register on August 8, 1983,
24 47 Fed. Reg. 58470-58484 (1983);

25 In response to a release or a substantial threat of a release
26 of a hazardous substance at or from the Site, the Ecology and EPA

27 CONSENT DECREE

1 in August, 1984, commenced a Remedial Investigation and Feasibility
2 Study ("RI/FS") pursuant to 40 C.F.R. 300.68 for the Site;

3 The Remedial Investigation ("RI") Report was completed in May,
4 1987, and the Feasibility Study ("FS") Report was also completed in
5 May, 1987. The FS Report contains a proposed plan for remedial action
6 at the Site;

7 Six volatile organic chemicals, all chlorinated aliphatic
8 hydrocarbons, were the main contaminants detected in the groundwater
9 at the Colbert Landfill Site during the Remedial Investigation
10 (Golder 1987). These contaminants, identified in this Decree as
11 "constituents of concern" are: 1,1,1-Trichloroethane (TCA);
12 1,1-Dichloroethylene (DCE); 1,1-Dichloroethane (DCA); Trichloro-
13 ethylene (TCE); Tetrachloroethylene (PCE); and Methylene Chloride
14 (MC). Constituents of concern were detected at levels requiring
15 remedial action in both upper and lower aquifers.

16 On January 8, 1988, EPA, pursuant to Section 122 of CERCLA,
17 42 U.S.C. § 9622, notified the County and Key Tronic that the EPA
18 determined each party to be a potentially responsible party
19 ("PRP") regarding the proposed remedial action at the Site;

20 EPA's decision on the final remedial action plan is embodied in
21 a document called a Record of Decision ("ROD"), issued September 29,
22 1987;

23 Pursuant to Section 121(d)(1), EPA, the State, Spokane County
24 and Key Tronic ("the parties") have determined that the remedial
25 action plan embodied in this Consent Decree will attain a degree of
26 cleanup of hazardous substances, pollutants and contaminants released

27 CONSENT DECREE

1 into the environment and of control of further release which at a
2 minimum assures protection of human health and the environment at the
3 Site;

4 The parties have determined that the remedial action plan embodied
5 by this Consent Decree will provide standard of control for such
6 hazardous substances, pollutants, or contaminants which at least
7 attains legally applicable or relevant and appropriate standards,
8 requirements, criteria, or limitations under Federal environmental
9 law or State environmental or facility siting law in accordance with
10 Section 121(d)(2) of CERCLA, 42 U.S.C. § 9621(d)(2); and will attain
11 a degree of cleanup as provided in RCW 70.105B.060; and the remedial
12 action plan is in accordance with Section 121 of CERCLA, 42 U.S.C. §
13 6921, and with the National Contingency Plan ("NCP"), 40 C.F.R. Part
14 300;

15 The County agrees to implement the final remedial action plan
16 as set forth in Appendix B to this Consent Decree, and the Government
17 Plaintiffs have determined that the work required under the Consent
18 Decree will be done properly by the County, and that the County is
19 qualified to implement the remedial action; and

20 The parties recognize, and intend to further hereby, the public
21 interest in the expedition of the cleanup of the Facility and
22 avoiding prolonged and complicated litigation between the parties.

23 NOW, THEREFORE, it is hereby Ordered, Adjudged and Decreed:
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27 CONSENT DECREE

IV.

DEFINITIONS

The following definitions shall apply to this Consent Decree, including the scope of work set forth in Appendix B:

A. ARAR means a federal or state standard, requirement, criterion, or limitation that is legally applicable or relevant and appropriate to cleanup of the Site as of the date of entry of this Consent Decree within the meaning of 42 U.S.C. § 9621(d).

B. CERCLA means the Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. § 9601 et seq., as amended, also known as "Superfund."

C. Colbert Landfill Site ("Site") means the Site located in Spokane County, and described in the September 29, 1987 ROD. See also Appendix A. The Site includes (1) the approximately 40-acre landfill operated from 1968 to 1986; (2) any portions of other properties that contain hazardous substances as a result of landfill operations at the landfill.

D. Constituents of Concern means such hazardous substances as are identified as major contaminants in the ROD; specifically, 1,1,1-Trichloroethane (TCA); 1,1-Dichloroethylene (DCE); 1,1-Dichloroethane (DCA); Trichloroethylene (TCE); Tetrachloroethylene (PCE); and Methylene Chloride (MC).

E. County or Spokane County means the County of Spokane, Washington.

F. Department of Ecology ("Ecology" or "State") means the State of Washington, Department of Ecology.

CONSENT DECREE

1 G. EPA means the United States Environmental Protection
2 Agency.

3 H. Government Plaintiffs means the State of Washington on
4 behalf of the Department of Ecology and the United States of America
5 on behalf of EPA, acting alone or together.

6 I. Hazardous Substance means any hazardous substance as
7 defined by CERCLA and dangerous waste, extremely hazardous waste and
8 hazardous substances as defined by state law.

9 J. Hazardous Waste Cleanup Act means Washington Laws of 1987,
10 Chapter 2, 3rd Ex. Session (S.B. 6085), as codified in Ch. 70.105
11 RCW and elsewhere.

12 K. Key Tronic means Key Tronic Corporation.

13 L. National Contingency Plan ("NCP") means the plan
14 promulgated pursuant to CERCLA and codified at 40 CFR Part 300 et
15 seq., as amended.

16 M. Parties means all parties who are signatories to the
17 Consent Decree.

18 N. Remedial Action means all activities and work specifically
19 identified in this Consent Decree, including Appendix B, and all
20 attachments thereto and plans and schedules thereunder, and all
21 amendments to any of the above made in accordance with this Consent
22 Decree.

23 O. RCRA means the Resource Conservation and Recovery Act, 42
24 U.S.C. §§ 6901 et seq.

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26
27 CONSENT DECREE

1 V.

2 PARTIES BOUND

3 This Consent Decree shall apply to and be binding upon the
4 signatories, their successors and assigns. The undersigned
5 representative of each party certifies that he or she is fully
6 authorized to enter into the terms and conditions of this Consent
7 Decree and to execute and legally bind such party to this document.
8 The County shall provide a copy of this Consent Decree to each
9 contractor or subcontractor retained to perform work contemplated by
10 this Consent Decree and shall condition any contract for such work
11 on compliance with this Consent Decree.

12 VI.

13 GENERAL PRINCIPLES

14 A. The Appendices to this Consent Decree and their Attachments
15 are a part of this Decree, and the plans and schedules prepared as
16 required in Appendix B and attachments thereto shall, upon their
17 approval by the Government Plaintiffs, be incorporated in the Decree.

18 B. Except as provided in Section XXVII (Dispute Resolution) and
19 Section XXX (Covenant Not to Sue) nothing in this Consent Decree
20 shall be deemed to limit the response authority of the Government
21 Plaintiffs under Section 104 of CERCLA, 42 U.S.C. § 9604 under
22 Section 106 of CERCLA, 42 U.S.C. § 9606, under the Hazardous Waste
23 Cleanup Act.

VII.

THE REMEDIAL ACTION

A. The County and Key Tronic shall finance and the County shall perform the Remedial Action in accordance with this Consent Decree. It is the intent of the parties that all work to be performed be embodied in Appendix B.

B. The Scope of Work to be performed by the County at and about the Site is attached to this Consent Decree as Appendix B and is herein incorporated by reference in its entirety. The Scope of Work requires that the County submit plans for approval by the Government Plaintiffs and implement such plans after receiving Governmental approval. All such approved plans shall become a part of this Decree, and this Decree shall be so amended upon and by the filing of approved plans with the Court. The Scope of Work to be performed at the Site includes further site characterization, installation of pilot extraction wells and initial remediation as well as full and final remediation measures.

As specified more completely in Appendix B, the Remedial Action includes, inter alia,

1. Provision of an alternate drinking water supply to each residence whose domestic water supply is affected by Constituents of Concern or by the Remedial Action;

2. Additional monitor wells installed and sampled to define plume(s) boundaries;

3. Preliminary selection of types of treatment system to be constructed;

4. Treatability studies for the contaminated water based on the selected treatment method, if necessary;

5. Preliminary design;

6. Final design (plans and specifications);

7. Construction of the extraction wells, treatment system, and discharge structure(s);

8. Operation and maintenance manual, (draft and final);

9. Operation and maintenance of the system;

10. System Performance monitoring program for test wells;

11. Monitoring program for domestic supply wells;

12. Pump tests for extraction wells;

13. Development and implementation of institutional controls to the degree authorized by law.

C. The Government Plaintiffs shall have such rights of review and approval of the Remedial Action as are provided herein. The Remedial Action shall be designed, implemented and completed in accordance with the National Contingency Plan (NCP) in effect on the effective date of this Consent Decree and with the standards, specifications, and schedule of completion set forth in Appendix B and Attachments and the plans and schedules developed in accordance therewith. The level of cleanup or treatment required by the Remedial Action with respect to constituents of concern shall not be in excess of the Performance Standards set forth in Appendix B, unless those standards

1 are modified under the five-year review authorized under CERCLA
2 §121(c), and discussed in Section XXV, B.

3 D. The Government Plaintiffs, Key Tronic and Spokane County
4 agree that the Remedial Action, as set forth in Appendix B; or as
5 modified in accordance with Section XXIII (Extension of Schedules) or
6 the Court, is consistent with the NCP and the Hazardous Waste Cleanup
7 Act and that the amounts paid by Key Tronic and Spokane County to
8 perform the work are necessary costs of response.

9 VIII.

10 OBLIGATIONS OF CONSENTING PARTIES

11 A. Obligation of Key Tronic

12 The obligation of Key Tronic shall be limited solely to payment
13 into the Trust Fund established under this Consent Decree of only the
14 following amounts according to the following schedule:

15	<u>Date</u>	<u>Amount</u>
16	September 30, 1988	650,000
16	September 30, 1989	650,000
17	September 30, 1990	950,000
17	September 30, 1991	950,000
18	September 30, 1992	1,000,000

19 Nothing herein shall preclude Key Tronic from paying prior to
20 the date contained in this schedule.

21 B. Obligation of Spokane County

22 Spokane County shall comply with the relevant terms and
23 conditions of this Consent Decree and implement the Remedial Action
24 as specified in Appendix B. It is the intent of the parties, that,

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27 CONSENT DECREE

1 consistent with Sections XIX, XXV, and XXX, any changes or modifica-
2 tions to the Scope of Work embodied in Appendix B will be implemented
3 by Spokane County.

4 IX.

5 INDEMNIFICATION

6 Spokane County agrees to indemnify and save and hold the
7 Government Plaintiffs, their agents and employees harmless from any
8 and all claims or causes of action for death or injuries to persons
9 or for loss or damage to property arising from or on account of acts
10 or omissions of the County, its officers, employees, agents, or
11 contractors in entering into and implementing this Decree; provided,
12 however, that the County shall not indemnify the Government Plain-
13 tiffs nor save nor hold its employees and agents harmless from any
14 claims or causes of action arising out of the acts or omissions of
15 the Government Plaintiffs, or the employees and agents of the Govern-
16 ments in implementing the activities pursuant to this Decree. Nothing
17 contained herein shall prevent the County from naming or joining EPA
18 or Ecology for their own acts of negligence or intentionally tortious
19 conduct, as provided by law.

20 X.

21 DATA REPORTING/AVAILABILITY, SAMPLING

22 The Government Plaintiffs and the County shall make the results
23 of all sampling, laboratory reports, and/or test results generated by
24 or on behalf of such party with respect to the implementation of this
25 Consent Decree available to the other. The County shall submit these
26 results in progress reports submitted in accordance with Section XI
27 CONSENT DECREE

1 (Progress Reports) herein. The Government Plaintiffs shall submit
2 their results in writing to the County within 30 days of receipt of a
3 written request.

4 At the request of the Government Plaintiffs, the County shall
5 allow split or duplicate samples to be taken by the Government Plain-
6 tiffs and/or its authorized representatives of any samples collected
7 by Spokane County pursuant to the implementation of this Consent
8 Decree. Spokane County shall use best efforts to notify the Govern-
9 ment Plaintiffs at least five (5) working days in advance of any
10 sample collection activity. The Government Plaintiffs shall allow
11 split or duplicate samples to be taken by the County or its author-
12 ized representatives of any samples collected by the Governments
13 pursuant to the implementation of this Consent Decree. The Govern-
14 ment Plaintiffs shall use best efforts to notify the County at least
15 five (5) working days prior to any sample collection activity.

16 Both the County and the Government Plaintiffs shall conduct all
17 sampling and analysis in a manner consistent with the Quality
18 Assurance/Quality Control Plan established for the Site.

19 XI.

20 PROGRESS REPORTS

21 A. Spokane County shall provide or cause their contractors or
22 agents to provide written reports to the Government Plaintiffs on a
23 monthly basis during periods of construction as provided by Appendix B
24 and quarterly thereafter until all the requirements of this Consent
25 Decree have been implemented, or on such other basis as may be mutually
26 agreed to by the County and the Government Plaintiffs without formal
27 CONSENT DECREE

1 amendment of this Consent Decree. These progress reports shall des-
2 cribe the actions that have been taken toward achieving compliance
3 with this Consent Decree, including a general description of Remedial
4 Action activities commenced or completed during the reporting period,
5 Remedial Action activities projected to be commenced or completed
6 during the next reporting period, and any problems that have been
7 encountered or are anticipated by the County in commencing or com-
8 pleting the activities. The monthly progress reports are to be sub-
9 mitted to the Government Plaintiffs by the 10th of each month for
10 work done the preceding month and planned for the current month.
11 Quarterly progress reports are to be submitted to the Government
12 Plaintiffs by the 10th of each month following the end of the pre-
13 ceding quarter.

14 B. If a progress report is incomplete or otherwise deficient,
15 the Government Plaintiffs shall notify the County within twelve (12)
16 work days of receipt of such progress report by the Government Plain-
17 tiffs. In the event that a longer review period is required, the
18 Government Plaintiffs shall notify the County within seven (7) days
19 of receipt of such document. The notice shall include a description
20 of the deficiencies. Notwithstanding this schedule, unless the
21 County invokes the procedures of Section XXVII (Dispute Resolution),
22 the County or its contractors or agents shall make the necessary
23 changes and resubmit the progress report or submit a response to the
24 notice of disapproval with the next progress report to the Government
25 Plaintiffs. Nothing in this paragraph shall be construed to negate
26 these Government Plaintiffs' rights of review and approval.

27 CONSENT DECREE

1 C. If the Government Plaintiffs determine that a resubmittal
2 progress report is deficient or disagree with the County's response
3 to a notice of disapproval, the County may invoke the Dispute Resolu-
4 tion procedures of Section XXVII.

5 XII.

6 OTHER REPORTS, PLANS AND OTHER ITEMS

7 A. Spokane County shall provide ten copies to EPA and five
8 copies to Ecology of any item described as "deliverables" in the work
9 plans and Scope of Work according to the schedule set forth therein.

10 B. If the Government Plaintiffs disapprove any plans, reports
11 (other than monthly progress reports covered by Section XI, above) or
12 other items required to be submitted to the Government Plaintiffs for
13 approval pursuant to this Consent Decree, then the County shall have
14 thirty (30) days from the receipt of such disapproval to correct any
15 deficiencies and resubmit the plan, report or item for Governmental
16 approval.

17 C. Any disapproval by the Government Plaintiffs shall be in
18 writing and include an explanation of why the plan, report or item is
19 being disapproved. In the event that a longer review period than
20 specified in Appendix B is required, the Government Plaintiffs shall
21 notify the County of that fact within 20 days of receipt of such
22 document. Nothing in this paragraph shall be construed to negate
23 these Government Plaintiffs' rights of review and approval.

24 D. The County must address each of the Government Plaintiffs'
25 comments and resubmit to the Government Plaintiffs the previously
26

1 disapproved plan, report or item with the required changes within the
2 deadline set in Paragraph B, above.

3 E. If any plan, report, or item cannot be approved by the
4 Government Plaintiffs after one resubmission, the County may invoke
5 the Dispute Resolution procedures of Section XXVII.

6 XIII.

7 RETENTION OF RECORDS

8 Spokane County shall preserve, during the pendency of this
9 Consent Decree and for ten (10) years from the date of termination of
10 this Consent Decree, all records, reports, documents, and underlying
11 data in their possession, or in the possession of their employees,
12 agents, relevant to the implementation of this Consent Decree, unless
13 otherwise ordered by the Court. The County shall also require all
14 such records in the possession of contractors to be provided to them
15 and shall retain copies of all such records which are nonduplicative.
16 Any party to this Consent Decree may have access to such documents.
17 Notwithstanding any other provision of this Consent Decree, the
18 Government Plaintiffs and the County retain any rights they may other-
19 wise have including but not limited to privilege within the meaning
20 of Rule 26(b) of the Federal Rules of Civil Procedure or Washington
21 Civil Rule 26(b), governing the production of such records and
22 documents.

23 XIV.

24 DESIGNATED PROJECT MANAGERS

25 A. Ecology's initial project manager is Mike Blum. EPA's
26 initial project manager is Neil Thompson. Spokane County shall

27 CONSENT DECREE

1 designate an initial project manager within thirty days of entry of
2 the Decree. Each project manager shall be responsible for overseeing
3 the implementation of this Consent Decree. The Government Plaintiffs'
4 project managers will be the Government Plaintiffs' designated repre-
5 sentatives at the Site. To the maximum extent possible, communi-
6 cations between the County and the Government Plaintiffs, and all
7 documents, including reports, approvals, and other correspondence
8 concerning the activities performed pursuant to the terms and condi-
9 tions of this Consent Decree, shall be directed through the project
10 managers.

11 Any party may change its respective project manager by notifying
12 the other party, in writing, at least ten (10) calendar days prior to
13 the change.

14 B. The Government Plaintiffs' project managers will observe
15 and monitor the progress of the Remedial Action being performed pur-
16 suant to this Consent Decree. The project managers shall have the
17 authority vested by 40 CFR § 300 et seq., and other applicable federal
18 laws and regulations. The project managers do not have the authority
19 to modify in any way the terms of this Consent Decree.

20 XV.

21 IMPLEMENTATION OF REMEDIAL ACTION

22 In the event that the Government Plaintiffs determines that the
23 County has failed without good cause to implement the Remedial Action,
24 the Government Plaintiffs may, after notice to the County and consist-
25 ent with the Dispute Resolution procedures of Section XXV, perform
26 any or all portions of the Remedial Action that remain incomplete.

1 If the Government Plaintiffs perform all or portions of the Remedial
2 Action because of the County's failure to comply with their obliga-
3 tions under this Consent Decree, the County shall reimburse the
4 Government Plaintiffs for the costs of doing such work within thirty
5 (30) days of receipt of demand for payment of such costs, provided
6 that the County is not obligated under this section to reimburse the
7 Government Plaintiffs for costs incurred for work inconsistent with
8 or beyond the scope of the Remedial Action unless it is work carried
9 out under the five-year review provided for by CERCLA §121(c), which
10 is referenced in Section XXIV. B. In any proceeding for costs under
11 this section, the County shall have the burden of proving that costs
12 claimed by the Government Plaintiffs were for work inconsistent with
13 or beyond the scope of the Remedial Action, work that is inconsistent
14 with the NCP, or work that was unnecessarily duplicative.

15 XVI.

16 FINANCIAL ASSURANCES

17 The Government Plaintiffs have reviewed the financial
18 capabilities of Key Tronic and Spokane County and have concluded that
19 the availability of financial resources is not an impediment to
20 implementation of the Remedial Action.

21 XVII.

22 PAYMENT OF COSTS

23 A. State Costs

24 Spokane County agrees to reimburse the appropriate account of
25 the Treasury of the State of Washington, as identified by Ecology,
26 for Ecology's reasonable and appropriate costs as shown by an item-
27

CONSENT DECREE

ized statement of such costs compiled and presented in conformance with State Office of Financial Management standards and procedures associated with Ecology's oversight of the Remedial Action that are consistent with the NCP or Ch. 70.105B RCW and not unnecessarily duplicative which have been conducted during the implementation of this Consent Decree. Within ninety (90) days of the end of each fiscal quarter, Ecology will submit to the County an itemized statement of Ecology's expenses for the previous quarter. Following receipt of the itemized statement, the County shall pay, within ninety (90) days, into the appropriate account of the Treasury of the State of Washington, as identified by Ecology, the required sum.

B. Federal Costs

[To be provided by EPA]

C. Mixed Funding

1. State of Washington

Pursuant to RCW 70.105B.070(7) the Director has determined that funding from the state toxics control account is appropriate to help defray the costs of conducting the remedial action required under this Consent Decree. Such funding will expedite and enhance cleanup operations and will achieve greater fairness with respect to the payment of remedial action costs by providing for the shares of nonparticipating potentially liable persons.

As provided for by RCW 70.105B.070(7) Ecology may seek to recover funds provided under this Decree from non-settling potentially liable persons. Ecology further reserves the right to seek reimbursement

1 for such funds from any party who has not fulfilled its obligations
2 set forth in this Consent Decree.

3 To achieve the goals and purposes of RCW 70.105B.070(7), the
4 Director has determined that funds shall be made available in the
5 following specified amounts:

6 a. Past Costs. The parties agree that Key Tronic and
7 Spokane County are liable for \$285,000 plus interest, for remedial
8 action costs incurred by Ecology to date. As part of its share of
9 mixed funding, Ecology agrees to waive collection of these costs from
10 the County and Key Tronic.

11 b. Future Costs. The parties agree that Key Tronic and
12 Spokane County are liable for Ecology's reasonable and appropriate
13 oversight costs as provided above. As part of its share of mixed
14 funding, Ecology agrees to waive collection of \$100,000 of such
15 future oversight costs. Spokane County shall be liable for such
16 oversight costs in excess of said amount.

17 c. Ecology agrees to preauthorize claims against the
18 state toxics control account for up to \$75,000 to be used in
19 providing an alternate water supply as required by Appendix B.

20 d. Ecology agrees to preauthorize claims against the
21 state toxics control account for up to \$100,000 to be used for
22 installation of an outfall pipe from the south extraction system to
23 the Little Spokane River as required by Appendix B.

24 e. Ecology agrees to preauthorize claims against the
25 state toxics control account for up to \$100,000 to be used for con-

struction of barrier wells in the south and west treatment systems as required by Appendix B.

All claims against the state toxics control account shall be contingent upon and subject to legislative appropriation.

D. Grant Funding

Upon entry of this Consent Decree, Spokane County shall be eligible to apply for grant funds from Ecology as provided by RCW 70.105B.220(4) and WAC 173-309-050.

XVIII.

TRUST FUND

Key Tronic shall, subsequent to the effective date of this Consent Decree, deposit in trust the amount of four million two hundred thousand dollars and no cents (\$4,200,000.00). Key Tronic shall pay funds into the trust fund under the schedule contained in Paragraph A of Section VIII of this Consent Decree. Said sum shall be held in trust pursuant to the terms of a trust agreement, which is attached hereto as Appendix C and is hereby incorporated by reference. Ecology and EPA shall jointly be designated as having the power of appointment under the trust (hereinafter "Trust Fund"). The Trust Fund shall be for the exclusive purposes of financing the Remedial Action required and set forth under the terms of this Consent Decree.

1 XIX.

2 RESERVATION OF RIGHTS

3 A. Key Tronic

4 Notwithstanding compliance with its obligation under this
5 Consent Decree to make the payments required under Paragraph A of
6 Section VII, and consistent with Sections XXV and XXX, Key Tronic is
7 not released from liability, if any, resulting from its use of Colbert
8 Landfill for costs of any removal or remedial action outside the
9 terms of this Consent Decree taken by the Government Plaintiffs with
10 respect to: (1) conditions at the Site, previously unknown to the
11 Government Plaintiffs, which are discovered after the entry of this
12 Consent Decree and which indicate that the Remedial Action is not
13 protective of human health and the environment; (2) new information
14 which is received after entry of this Consent Decree and which reveals
15 a significant quantity of a hazardous substance originating from the
16 Site not identified in the ROD or this Consent Decree or a condition
17 not previously identified in the ROD or this Consent Decree as being
18 present at the Site, in area of the Site other than as described in
19 the ROD or this Consent Decree, or in quantities significantly greater
20 than as described in the ROD or this Consent Decree; or (3) contami-
21 nation originating other than from the Site. The Government Plain-
22 tiffs reserve the right to take any such action outside the terms of
23 this Consent Decree pursuant to CERCLA or the Hazardous Waste Cleanup
24 Act. In addition, the Government Plaintiffs reserve the right to
25 seek damages in exoneration/reimbursement from Key Tronic for such
26 costs incurred by the Government Plaintiffs.

27 CONSENT DECREE

1 B. Spokane County

2 Notwithstanding compliance with the terms of this Consent
3 Decree, including completion of the Remedial Action, the County is
4 not released from liability, if any, for costs of any removal or
5 remedial actions outside the terms of this Consent Decree taken by
6 the Government Plaintiffs with respect to: (1) conditions of the
7 Site, previously unknown to the Government Plaintiffs, which are
8 discovered after the entry of this Consent Decree, when these pre-
9 viously unknown conditions indicate that the Remedial Action is not
10 protective of human health and the environment; (2) new information
11 which is received after entry of this Consent decree and which
12 reveals a significant quantity of a hazardous substance originating
13 from the Site not identified in the ROD or this Consent Decree or a
14 condition not previously identified in the ROD or this Consent Decree
15 as being present at the Site, in area of the Site other than as des-
16 cribed in the ROD or this Consent Decree, or in quantities signifi-
17 cantly greater than as described in the ROD or this Consent Decree;
18 or (3) contamination originating other than from the Site. The
19 Government Plaintiffs reserve the right to take any such action out-
20 side the terms of this Consent Decree pursuant to CERCLA or the
21 Hazardous Waste Cleanup Act. In the event that the County fails or
22 refuses to perform any tasks in accordance with the standards, speci-
23 fications, and schedules specified in the work plans or Scope of
24 work, the Government Plaintiffs may undertake such tasks. In addi-
25 tion, the Government Plaintiffs reserve the right to seek damages in
26

27 CONSENT DECREE

1 exoneration/reimbursement from the County for such costs incurred by
2 the Government Plaintiffs.

3 XX.

4 OTHER CLAIMS

5 Nothing in this Consent Decree shall constitute or be construed
6 as a release from any claim, cause of action or demand in law or
7 equity against any person, firm partnership, corporation, or state
8 or local governmental entity not a signatory to this Consent Decree
9 for any liability it may have arising out of or relating in any way
10 to the generation, storage, treatment, handling, transportation,
11 release, or disposal of any hazardous substances, hazardous wastes,
12 pollutants, or contaminants found at, taken to, or taken from the
13 Site. Except as provided in paragraph C and D of Section XVII,
14 regarding mixed or grant funding to be provided by the Government
15 Plaintiffs, this Consent Decree does not preauthorize or constitute
16 any decision or preauthorization of funds under 42 U.S.C. § 9611(a)(2)
17 or the Hazardous Waste Cleanup Act. Key Tronic and Spokane County
18 waive any claims they may otherwise have against the Superfund or
19 state or local toxics control accounts.

20 XXI.

21 COMPLIANCE WITH LAWS

22 A. Subject to the limitations of paragraph B of this section,
23 all actions carried out by the County pursuant to the Consent Decree
24 shall be done in accordance with all applicable federal, state statutes,
25 rules, regulations and ordinances.

1 B. As provided in Section 121(e) of CERCLA, 42 U.S.C. § 9621(e),
2 no federal, state, or local permit shall be required for the portions
3 of the Remedial Action to be conducted entirely on the Site, although
4 the County must comply with the substantive requirements of all applic-
5 able federal laws. As provided in Section 25 of the Hazardous Waste
6 Cleanup Act, RCW 70.105B.250, the Remedial Action is exempt from the
7 procedural and substantive requirements of state and local laws that
8 would otherwise apply to the Remedial Action.

9 C. To the extent that, notwithstanding paragraph B of this
10 Section, the County must obtain any permits in connection with the
11 Remedial Action, the Government Plaintiffs shall assist the County in
12 obtaining any such permits.

13 XXII.

14 SITE ACCESS

15 The Government Plaintiffs or any authorized representative of
16 the Government Plaintiffs shall have the authority to enter and freely
17 move about all property at the Site at all reasonable times for the
18 purposes of, inter alia: inspecting records, operation logs, and
19 contracts related to the Site; reviewing the progress in carrying out
20 the terms of this Consent Decree; conducting such tests or collecting
21 samples as the Government Plaintiffs or the project managers may deem
22 necessary; using a camera, sound recording, or other documentary type
23 equipment to record work done pursuant to this Consent Decree; and
24 verifying the data submitted to the Government Plaintiffs by the
25 County. The Government Plaintiffs shall split any samples taken
26 during an inspection unless the County fails to make available a

1 representative for the purpose of splitting samples. The County
2 shall allow such persons to inspect and copy all records, files,
3 photographs, documents, and other writings including all sampling and
4 monitoring data, in any way pertaining to work undertaken pursuant to
5 this Consent Decree that is not otherwise privileged within the mean-
6 ing of Rule 26(b) of the Federal Rules of Civil Procedure or Washing-
7 ton Civil Rule 26(b). All parties with access to the Site pursuant
8 to this section shall comply with approved health and safety plans.
9 To the extent practicable, the Government Plaintiffs shall endeavor
10 to notify the County prior to entering and moving about the Site.

11 If, after diligent efforts, the County is unable to achieve
12 access, the Government Plaintiffs will assist in securing access
13 pursuant to existing law, including RCW 70.105B.030 and 70.105B.110.

14 XXIII.

15 ENDANGERMENT

16 In the event the Government Plaintiffs determine or concur in a
17 determination by another local, state, or federal agency that activi-
18 ties implementing or in noncompliance with this Consent Decree, or
19 any other circumstances or activities, are creating or have the poten-
20 tial to create an imminent and substantial endangerment to the public
21 health or welfare or the environment, the Government Plaintiffs may
22 order the County to stop further implementation of this Consent Decree
23 for such period of time as needed to abate the danger. During any
24 stoppage of work under this section, the County's obligations with
25 respect to the work ordered to be stopped shall be suspended and the
26 time periods for performance of that work, as well as the time period

1 for any other work dependent upon the work which stopped, shall be
2 extended, pursuant to Section XXIV (Extension of Schedules) of this
3 Consent Decree, for such period of time as the Government Plaintiffs
4 determine is reasonable under the circumstances, in no event less
5 than the time of the stoppage. If the Government Plaintiffs unreason-
6 ably stopped work and thereby increased costs to the County to per-
7 form the Remedial Action, the County reserves its rights to seek
8 reimbursement from the Government Plaintiffs.

9 B. In the event the County determines that activities undertaken
10 in furtherance of this Consent Decree or any other circumstances or
11 activities are creating or have the potential to create an imminent
12 and substantial endangerment to the people on the site or in the
13 surrounding area or to the environment, the County may stop imple-
14 mentation of this Consent Decree for such periods of time necessary
15 for the Government Plaintiffs to evaluate the situation and determine
16 whether the County should proceed with implementation of the Consent
17 Decree or whether the work stoppage should be continued until the
18 danger is abated. The County shall notify the Government Plaintiffs'
19 project managers as soon as is possible, but no later than twenty-
20 four (24) hours if the stoppage occurs on a weekday, and forty-eight
21 (48) hours if the stoppage occurs on a weekend or holiday, after such
22 stoppage of work, and provide the Government Plaintiffs with docu-
23 mentation of its analysis in reaching this determination. If the
24 Government Plaintiffs disagree with the County's determination, it
25 may order the County to resume implementation of this Consent Decree.

1 During any stoppage of work under this paragraph, the County's obli-
2 gations shall be suspended and the time periods for performance of
3 that work, as well as the time period for any other work dependent
4 upon the work which was stopped, shall be extended, pursuant to
5 Section XXIV (Extension of Schedules) of this Consent Decree, for
6 such period of time as the Government Plaintiffs determine is rea-
7 sonable under the circumstances in no event less than the time of the
8 stoppage.

9 C. Any disagreements pursuant to this clause shall be resolved
10 through the dispute resolution procedures.

11 XXIV.

12 EXTENSIONS OF SCHEDULES

13 A. An extension shall be granted only when a request for an
14 extension is submitted in a timely fashion and good cause exists for
15 granting the extension. All extensions shall be requested in writ-
16 ing. The request shall specify the reason(s) the extension is needed.
17 An extension shall only be granted for such period of time as the
18 Government Plaintiffs determine is reasonable under the circumstances.
19 The Government Plaintiffs shall act upon all written requests in a
20 timely fashion. It shall not be necessary to formally amend this
21 decree pursuant to Section XXV when a schedule extension is granted;
22 however, following any schedule extension, the County shall prepare a
23 revised schedule which they shall provide to the Government Plain-
24 tiffs and file with the Court.

25 B. The burden shall be on the County to demonstrate that the
26 request for the extension has been submitted in a timely fashion and

1 that good cause exists for granting the extension. Good cause may
2 include, but not be limited to, the following:

3 (1) Circumstances beyond the reasonable control and despite
4 the due diligence of the County (including delays caused by unrelated
5 third parties);

6 (2) Delays in the issuance of a necessary permit which was
7 timely applied for;

8 (3) Other circumstances deemed exceptional or extraordinary.

9 (4) Changes in work plans;

10 (5) Unanticipated access, drilling, or logistics problems;

11 Good cause shall include the following:

12 (1) Government Plaintiffs' review periods in excess of prescribed
13 times.

14 (2) Acts of God, fire, flood, blizzard, extreme temperatures,
15 or other unavoidable casualty;

16 (3) Judicial Stay; and

17 (4) Work Stoppage due to endangerment as provided in Section XXI.

18 Neither increased costs of performance of the terms of this
19 Decree nor changed economic circumstances may be considered circum-
20 stances beyond the reasonable control of the County.

21 XXV.

22 AMENDMENT OF CONSENT DECREE

23 This Consent Decree may only be amended by written stipulation
24 between the Government Plaintiffs and the affected party (parties).

25 All affected parties shall be given prompt written notice of such
26 amendments. Such amendment shall become effective upon entry by the

27 CONSENT DECREE

1 Court. Agreement to amend shall not be unreasonably withheld by any
2 party to the Consent Decree.

3 The County shall submit any request for modifications to the
4 remedial program or project schedule to the Government Plaintiffs
5 for approval. The Government Plaintiffs shall indicate their approval
6 or disapproval of these in a timely manner after the request for
7 modification is received. Reasons for the disapproval shall be stated
8 in writing. If the Government Plaintiffs do not agree to any proposed
9 modification, the disagreement may be addressed through the dispute
10 resolution procedures described in Section XXVII of this Consent
11 Decree.

12 B. In accordance with CERCLA, the design and operation of the
13 Remedial Action will be reviewed and, if appropriate, adjusted at
14 intervals not to exceed five years.

15 C. No guidance, suggestions, or comments by the Government
16 Plaintiffs will be construed as relieving the County of its obliga-
17 tion to obtain formal approval as may be required by this Consent
18 Decree. No verbal communication by the Government Plaintiffs shall
19 relieve the County of the obligations specified herein.

20 The Government Plaintiffs shall notify the County in writing of
21 any Government Plaintiff proposal for modifications of the remedial
22 program or project schedule and the basis for such proposal. The
23 County shall thereafter comply with such modifications, or if it does
24 not agree with those modifications, the disagreement shall be
25 addressed through the dispute resolution procedures described in
26 Section XXVII of this Consent Decree.

27 CONSENT DECREE

1 XXVI.

2 STIPULATED PENALTIES

3 A. Spokane County shall pay stipulated penalties of \$100 per
4 day for the submission of a deficient resubmittal progress report as
5 called for in Section XI.

6 B. Except for the stipulated penalties specified in paragraph A,
7 the County or Key Tronic shall pay the following stipulated penalties
8 for each failure to comply with their respective requirements of this
9 Decree, including but not limited to all implementation schedules and per-
10 formance and submission dates:

11 Period of Failure to Comply	Penalty Per Violation Per Day
12	
13 1st through 14th day	\$500
14 15th through 44th day	\$750
15 45th day and beyond	\$1,000

16 whether or not a violation has occurred shall be a matter for
17 resolution under Section XXVII (Dispute Resolution).

18 C. Penalties shall accrue from the date performance is due or
19 a violation occurs and continue until the final day of correction of
20 the noncompliance. Nothing herein shall prevent the simultaneous
21 accrual of separate stipulated penalties for separate violations of
22 this Consent Decree unless the Court invalidates the basis. One-half
23 of penalties due under this Section shall be payable to U.S. EPA and
24 one-half shall be payable to Ecology, into accounts designated by the
25 respective Government Plaintiffs.

1 D. Penalties shall accrue but need not be paid during the
2 dispute resolution period. If the District Court becomes involved in
3 the resolution of the dispute the period of dispute shall end upon
4 the rendering of a decision by the District Court regardless of
5 whether any party appeals such decision. If the County does not
6 prevail upon resolution, the Government Plaintiffs have the right to
7 collect all penalties which accrue prior to and during the period of
8 dispute. If the County prevails upon resolution, no penalties shall
9 be payable.

10 E. If the County or Key Tronic fails to pay stipulated penalties,
11 the Government Plaintiffs may institute proceedings to collect the
12 penalties. Notwithstanding the stipulated penalties provisions of this
13 Paragraph, U.S. EPA may elect to assess civil penalties and/or bring
14 an action in U.S. District Court pursuant to Section 109 of CERCLA,
15 as amended by SARA, to enforce the provisions of this Consent Decree
16 provided that County's or Key Tronics total penalty exposure to EPA for
17 violations shall be limited to \$25,000 per day per violation of this
18 Consent Decree. Payment of stipulated penalties shall not preclude
19 U.S. EPA or the State from electing to pursue any other remedy or
20 sanction to enforce this Consent Decree, and nothing shall preclude
21 U.S. EPA or the State from seeking statutory penalties against the
22 County or Key Tronic for violations of statutory or regulatory
23 requirements.

1 XXVII.

2 DISPUTE RESOLUTION

3 A. Except as otherwise specifically provided for in this
4 Consent Decree, these dispute resolution procedures shall apply to
5 all disputes between the County and the Government Plaintiffs with
6 respect to the interpretation, application or decisions of the
7 Government Plaintiffs implementing this Consent Decree. Except as
8 otherwise specifically provided for in this Consent Decree, any
9 dispute which arises with respect to the interpretation, application
10 or a decision of the Government Plaintiffs implementing this Consent
11 Decree shall in the first instance be the subject of informal nego-
12 tiations between the County and the Government Plaintiffs. The period
13 for informal negotiations shall be thirty (30) days from the date of
14 receipt of a written statement of the issue in dispute, unless other-
15 wise extended or shortened by mutual written agreement of the parties
16 to the dispute. If the dispute is not resolved during the informal
17 negotiation period, either party may petition the Court with notice
18 to all parties, setting forth the matter in dispute, within fourteen
19 (14) calendar days after the end of the informal negotiation period.
20 In an emergency, any party to the dispute may file a petition prior
21 to the expiration of the informal negotiations period. Unless other-
22 wise ordered by the Court, the filing of a petition shall not operate
23 to stay the work which is the subject of dispute, nor extend or post-
24 pone the County's obligations under this Consent Decree with respect
25 to the disputed issue.

1 The standard of judicial review shall be the arbitrary and
2 capricious standard for all disputes involving the selection of the
3 remedy. Otherwise, the standard of review for dispute resolution
4 shall be determined by the Court. With respect to disputes involving
5 the selection of the remedy, the County shall bear the burden of
6 proof for demonstrating that an action of the Government Plaintiffs
7 is arbitrary and capricious. In all other disputes, the moving party
8 shall bear the burden of proof on all disputes, whatever the applic-
9 able standard.

10 B. The Court's determination shall bind the County and
11 the Government Plaintiffs. Each party shall bear its own attorney's
12 fees, expert witness fees or legal costs resulting from utilization
13 of the judicial review provisions of these dispute resolution procedures.

14 C. In no event will the performance standards contained
15 in the Scope of Work be subject to dispute resolution.

16 D. Delay caused by formal dispute resolution requested
17 by the County in which the Government Plaintiffs prevail shall
18 not constitute an excuse from payment of stipulated penalties,
19 unless otherwise ordered by the Court.

20 XXVII.

21 TRANSFER OF INTEREST IN PROPERTY

22 No conveyance of title, easement, or other interest in any
23 portion of the Site owned by the County shall be consummated without
24 provision for continued operation and maintenance of any containment
25 system, treatment system, and monitoring system installed or imple-
26 mentation of that pursuant to this Consent Decree.

27 CONSENT DECREE

1 Prior to transfer of any legal or equitable interest in all or
2 any portion of property owned by the County, the County shall serve
3 a copy of this Consent Decree upon any prospective purchaser, lessee,
4 transferee, assignee, or other successor in interest of the property
5 and, at least thirty (30) days prior to any transfer, shall notify
6 the Government of said contemplated transfer.

7 Within thirty (30) days after entry of the Consent Decree the
8 County shall cause to be recorded in the appropriate registry of
9 deeds a notice and a copy of this Consent Decree with the deeds for
10 its property at the Site, and shall verify to the Government Plain-
11 tiffs that such recording has been completed.

12 XXIX.

13 COMMUNITY RELATIONS

14 The Government Plaintiffs shall be the lead for community
15 relations, and the County shall be responsible for helping to coordi-
16 nate and implement community relations for the Site. The Government
17 Plaintiffs shall consult with the County in the preparation and
18 finalization of fact sheets, press releases, and public notices.

19 The governments shall accommodate where possible the County's
20 concerns prior to release of such information. The County shall
21 assist in:

- 22 1. Distribution of the fact sheets referred to above;
- 23 2. Coordination of public meetings;
- 24 3. In supplying appropriate documents and information for the
25 information repositories.

1 In the event of the disagreement over the contents of any document
2 prepared for purposes of community relations, or any other decision
3 related to community relations, or any other decision related to com-
4 munity relations, the governments' determination shall be final.
5 Nothing provided in this section shall prevent the County from
6 developing or conducting their own Community Relations Program, con-
7 sistent with this Decree.

8 XXX.

9 COVENANTS NOT TO SUE

10 A. State of Washington. Except as specifically provided in
11 Paragraph A.2 of this Section, the State of Washington covenants not
12 to sue Key Tronic and the County for Covered Matters. Covered
13 Matters shall include any and all civil liability to the State for
14 causes of action arising under the Hazardous Waste Cleanup Act,
15 Ch. 70.105 RCW, or Ch. 90.48 regarding contamination from hazardous
16 substances originating from the site, identified herein as consti-
17 tuents of concern. This Consent Decree is entered into to provide
18 for Remedial Action at the Colbert Landfill site. The Director finds
19 that issuance of a covenant not to sue is appropriate and within the
20 public interest as defined by RCW 70.105B.080(2). The Remedial Action
21 to be implemented will achieve cleanup levels that prevent actual or
22 potential harm to human health and the environment as required by
23 RCW 70.105B.060.

24 1. Except as specifically provided otherwise in Paragraph A.2,
25 this covenant not to sue shall take effect as to Key Tronic upon
26 tender of all payments required under Paragraph A of Section XVII
27 CONSENT DECREE

and as to the County upon certification by the State of Washington of the completion of the Remedial Action. Upon receipt of all payments from Key Tronic as provided in Paragraph A of Section VIII, the Government Plaintiffs shall issue a Certification of Completion to Key Tronic. Key Tronic may apply for such a certification upon tender of its final payment. The Government Plaintiffs shall issue the Certification of Completion according to the terms of RCW 70.105B.090. The County will request the State of Washington to make a final inspection upon completion of the work as described in Appendix B. The State of Washington shall promptly provide public notice as required by RCW 70.105B.090(1), and inspect the work to determine if such work has been completed in accordance with the plans. The inspection shall occur within thirty (30) days of the request unless the parties agree to a later date. The State of Washington shall notify the County in writing within thirty (30) days of the initial inspection that the work has been satisfactorily completed or shall specify any corrective work it believes to be needed. The County shall notify the State of Washington of the completion of any necessary corrective work. The State of Washington shall reinspect if it deems necessary within ten (10) days of the notification from the County. This procedure shall be utilized in combination with the Dispute Resolution procedures of Section XXVI if necessary, until it has been determined that the work has been satisfactorily completed. Within ten (10) days of determining the work has been satisfactorily completed, the State of Washington shall issue a certificate of completion to the County, according to the terms of RCW 70.105B.090.

CONSENT DECREE

-39-

1 2. Notwithstanding any other provision in this Consent Decree,
2 the State of Washington reserves the right to institute proceedings
3 in this action or in a new action (a) seeking to compel the County or
4 Key Tronic perform or finance further response actions at the Site in
5 addition to or other than the Remedial Action or (b) seeking reimburse-
6 ment of the Government Plaintiffs' response costs, if:

7 (i) for proceedings before certification of completion,
8 (A) new information reveals conditions at the Site, previously unknown
9 to the Government Plaintiffs, are discovered after the entry of this
10 Consent Decree and which indicates that the Remedial Action is not
11 protective of human health and the environment; or (B) new information
12 is received after entry of this Consent Decree and the new information
13 reveals a significant quantity of a hazardous substance originating
14 from the Site or condition not identified in the ROD or this Consent
15 Decree as being present at the Site, in an area of the Site other
16 than as described in the ROD or this Consent Decree, or in quantities
17 significantly greater than in this ROD or this Consent Decree;

18 (ii) for proceedings after certification of completion,
19 (A) conditions at the Site, previously unknown to the State of Wash-
20 ington are discovered after certification of completion or informa-
21 tion is received, in whole or in part, after certification of comple-
22 tion, and these previously unknown conditions or this information
23 indicate that the Remedial Action is not protective of human health
24 and the environment, or (B) after certification of completion, the
25
26

1 State of Washington discovers the release or threatened release from
2 the Site of hazardous substances not identified in the ROD as origi-
3 nating from the Site.

4 3. The State of Washington's right to institute proceedings
5 in this action or in a new action seeking to compel Key Tronic or the
6 County to perform response actions in addition to or other than the
7 Remedial Action regarding contamination originating from the Site,
8 or seeking reimbursement from Key Tronic or the County for the costs
9 of such response actions, may only be exercised where the conditions
10 in Paragraph A.2 are met.

11 4. Notwithstanding any other provision of this Consent Decree,
12 the covenants not to sue under this Section shall not relieve Key
13 Tronic and the County of their obligation to meet and maintain compli-
14 ance with the requirements set forth in this Consent Decree, includ-
15 ing the requirement of Key Tronic to make the payments as provided
16 herein and the requirement of the County to implement the Remedial
17 Action.

18 B. United States.

19 XXXI.

20 EFFECTIVE AND TERMINATION DATES

21 A. This Consent Decree shall be effective upon the date of
22 its entry by the Court.

23 B. Termination of this Consent Decree may only be effected
24 upon completion of all Remedial Action activities, reimbursement of
25 Government Plaintiffs costs and resolution of any outstanding dis-
26 putes pursuant to this Decree. Termination of this Consent Decree

27 CONSENT DECREE

-41-

1 shall not affect the Covenant Not to Sue, Section XXIX, which shall
2 remain in effect as an agreement between the parties.

3 C. This Consent Decree shall remain in effect and the Remedial
4 Action described herein shall be maintained and continued until both
5 Key Tronic and the County receive written Certification of Comple-
6 tion from the Government Plaintiffs. The Certifications of Completion
7 shall be issued according to the terms of RCW 70.105B.090.

8 XXXII.

9 RETENTION OF JURISDICTION

10 This Court shall retain jurisdiction over this matter for the
11 purposes of interpreting, implementing, modifying, enforcing or
12 terminating the terms of this Consent Decree, and of adjudicating
13 disputes between the parties under this Consent Decree.

14 XXXIII.

15 NOTICES

16 Whenever, under the terms of this Consent Decree, written
17 notice is required to be given or a report or other document is
18 required to be given or a report or other document is required to be
19 forwarded by one party to another it shall be directed to the
20 individuals specified below unless those individuals or their
21 successors give notice in writing to the other parties.

22 As to the Governments:

23 Mike Blum
24 Department of Ecology
25 Hazardous Waste Cleanup Program
26 Mail Stop PV-11
27 Olympia, WA 98504-8711

Neil Thompson
EPA Region 10
Superfund Group - HW-113
1200 Sixth Avenue
Seattle, WA 98101

CONSENT DECREE

-42-

1 As to the Defendants:

2 David Powers
3 Key Tronic Corporation
4 P.O. Box 14687
5 Spokane, WA 99214

Bill Dobratz
Director of Public Utilities
N. 811 Jefferson
Spokane, WA 99260

6 XXXIV.

7 LODGING OF DECREE WITH THE COURT AND PUBLIC COMMENT

8 This Consent Decree shall be lodged with the Court for a period
9 of 30 days for public comment pursuant to the provisions of 28 CFR
10 § 50.7, RCW 70.105B.070(5), and WAC 173-340-040(7) and it shall not
11 be submitted to the Court for execution until the expiration of that
12 period. The parties reserve the right to withdraw or withhold its
13 consent to a judgment based on this Consent Decree if the comments,
14 views and allegations concerning the Consent Decree disclose facts or
15 considerations which indicate that the Consent Decree is inappropriate,
16 improper or inadequate.

17 Comments on the Consent Decree shall be submitted to the United
18 States District Court for the Eastern District of Washington and
19 shall be promptly forwarded to all parties.
20
21
22
23
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25
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27 CONSENT DECREE

-43-

1 The State of Washington, the United States, Key Tronic and the
2 County by their duly authorized representatives agree to this Consent
3 Decree subject to the public notice requirements found at 28 CFR
4 § 50.2, RCW 70.105B.070(5) and WAC 173-340-040(7).

5 STATE OF WASHINGTON
6 DEPARTMENT OF ECOLOGY

UNITED STATES OF AMERICA
on behalf of the
ENVIRONMENTAL PROTECTION AGENCY

7 By: _____
8 _____
9 _____

By: _____

10 Its: _____

Its: _____

11 Date: _____

Date: _____

12 SPOKANE COUNTY

KEY TRONIC CORPORATION

13 By: _____
14 _____

By: _____

15 Its: _____

Its: _____

16 Date: _____

Date: _____

17 DATED this ____ day of _____, 1988.
18

19 _____
JUDGE
20
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22
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24
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26

27 CONSENT DECREE

-44-

APPENDIX C

COLBERT LANDFILL TRUST FUND

THIS DECLARATION OF TRUST, dated this ____ day of _____, 1988, is entered by and between ("Settlor"), and _____ Bank ("Trustee"), pursuant to the Agreements On Consent To Implement Focused Corrective Action Measures matter in State of Washington, Department of Ecology and United States Environmental Protection Agency v. Key Tronic, Inc. and Spokane County, No. _____ (the "Consent Decree"), copies of which are attached as Exhibit A and are incorporated by reference herein.

NOW, THEREFORE, the Settlor and the Trustee agree as follows:

Settlor, Key Tronic, Inc. does hereby agree to transfer, assign, and convey unto the Trustee the sum of Four Million Two Hundred Thousand Dollars and No Cents (\$4,200,000.00) in trust. Such funds shall be transferred pursuant to the terms of the Consent Decree and shall constitute the trust assets.

Article 1:

Trustee shall hold the trust assets, as trustee, in a trust to be known as the Colbert Landfill Trust Fund. This trust is organized and shall be operated to provide a source of funds for the purpose of paying for the work referenced in the Consent Order according to the terms and conditions of the Consent Order. In furtherance of this purpose the Regional Administrator of the Environmental Protection Agency Region 10 and the Director of the Department of Ecology (the

1 "Directors") shall jointly have a special power of appointment over
2 all income and all trust assets. That power, not held in trust, may
3 be exercised from time to time in the manner and for the purposes
4 designated in this Article.

5 Article 2:

6 The trust shall continue until the earlier issuance of a
7 Certification of Completion to Spokane County, or until all the trust
8 assets and income have been appointed for the activities and purposes
9 designated by the Directors.

10 Article 3:

11 The income and trust assets shall be distributed by the Trustee
12 from time to time as appointed by the Directors. All trust assets
13 and income, after payment of compensation to the trustee and
14 incidental trust expenses, shall be appointable to the purpose
15 designated in Article 1. No part of said income or trust assets
16 shall inure to the benefit of any person or individual or for any
17 purpose not provided for by this Agreement. The Trustee may rely
18 with acquittance upon any appointment of such funds made by the
19 Director.

20 Article 4:

21 This trust Agreement shall be irrevocable and Settlers shall
22 have no right whatsoever to alter, amend, revoke or terminate this
23 Trust Agreement in whole or in part. It is settlers' intention to
24 transfer the entire interest in all assets transferred to the
25 Trustee herein named. Therefore, the settlers assign to the said
26

1 Trustee all right, title and interest in the trust corpus and
2 relinquishes all administrative power over the trust corpus and any
3 power to control the beneficial enjoyment of the trust corpus.

4 Article 5:

5 This trust shall terminate as provided in Article 2. If, at
6 that time, there remains trust income or assets which have not been
7 appointed by the Director, then all such remaining unappointed assets
8 and income shall be delivered forthwith in equal shares to accounts
9 in the Treasuries of the State of Washington and United States of
10 America, designated by the Directors.

11 Article 6:

12 The trustee shall with respect to any and all property which
13 may at any time be held by it in trust pursuant to this Agreement,
14 whether such property constitutes principal or accumulated income of
15 the trust, have in addition to the duties, powers and rights imposed
16 and granted by law the power, exercisable in the Trustee's
17 discretion at any time and from time to time and on such terms and
18 in such manner as the Trustee may deem advisable to:

19 a) Sell, convey, exchange, convert, improve, repair,
20 manage, operate and control;

21 b) Encumber or hypothecate for any trust purpose by
22 mortgage, deed of trust, pledge or otherwise;

23 c) Carry insurance of such kinds and in such amounts at
24 the expense of the Trust as the trustee may deem advisable;

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26

27 CONSENT DECREE

1 d) Commence or defend at the expense of the trust such
2 litigation with respect to the trust or any property of the trust as
3 the trustee may deem advisable;

4 e) Invest and reinvest the trust assets in such property
5 as will carry forth the intent of the trust; and

6 f) Compromise, submit to arbitration, release with or
7 without consideration, and otherwise adjust any claims in favor of
8 or against the trust.

9 Article 7:

10 All taxes, assessments, fees, charges, and other expenses
11 incurred by the trust or incurred by the Trustee in the administra-
12 tion or protection of this trust, including the compensation of the
13 Trustee provided for in this Agreement, shall be a charge on the trust
14 assets and shall be paid by the Trustee prior to final distribution
15 of the trust in full out of the income of the trust, or partially out
16 of the principal and partially out of the income of the trust, in
17 such manner and proportions as the Trustee in its discretion may
18 determine to be advisable.

19 Article 8:

20 The Trustee shall have the right to resign at any time by
21 delivering his resignation in writing to the Settlers, such
22 resignation to take effect upon the acceptance of appointment in
23 writing by a successor Trustee. Upon any such resignation the
24 Settlers shall deliver to the Directors a copy of the letter of
25 resignation together with a letter proposing to appoint a successor

1 Trustee. Upon the approval of the successor Trustee by the Directors,
2 the Settlers shall in writing appoint the successor Trustee. Accept-
3 ance of appointment as successor Trustee shall be in writing and
4 shall become effective upon receipt by the Settlers of notice of such
5 acceptance.

6 Any successor Trustee appointed under this article shall upon
7 appointment, immediately succeed to all powers, rights, discretions,
8 obligations, and immunities of the Trustee under this Agreement with
9 the same effect as though the successor Trustee were originally
10 named as Trustee in this Agreement.

11 Article 9:

12 The Trustee shall be entitled to be paid a reasonable compensation
13 without prior court order.

14 Article 10:

15 This trust Agreement shall be administered, construed, and
16 enforced according to the laws of the State of Washington. Should
17 any provision of this Agreement be or become invalid or unenforce-
18 able, the remaining provisions of this Agreement shall be and con-
19 tinue to be fully effective.

20 Article 11:

21 Any notices or other communication required or permitted by
22 this Agreement to be delivered to or served on the Trustee shall be
23 deemed properly delivered to, or serve on, and received by the
24 Trustee when personally delivered to a trust officer of the Trustee,
25 or in lieu of such personal service, when deposited in the United
26

1 States mail, certified mail with postage prepaid, addressed to the
2 Trustee at _____.

3 Any notices or other communications required or permitted by
4 this Agreement to be delivered to or served on the EPA shall be
5 deemed properly delivered to, or served on, and received by the EPA
6 when deposited in the United States mail, certified mail with
7 postage prepaid, addressed to the Chief, Waste Management Branch,
8 M/S 533, Environmental Protection Agency, 1200 Sixth Avenue,
9 Seattle, Washington 98101, or his designee.

10 Any notices or other communications required or permitted by
11 this Agreement to be delivered to or served on the the Department of
12 Ecology shall be deemed properly delivered to, or served on, and
13 received by the Department of Ecology when deposited in the United
14 States mail, certified mail with postage prepaid, addressed to the
15 Director, Department of Ecology, Mail Stop PV-11, Olympia, WA 98504,
16 or her designee.

17 EXECUTED on _____, 1988, at _____
18 County, Washington.

19

20

21

22

23

24

25

26

27

Settlors

KEY TRONIC, INC.

By _____

CONSENT DECREE

1 UNITED STATES AIR FORCE

2 By _____

3
4
5 By _____
6 Trustee

7 Approved by:

8 _____
9 Regional Administrator
10 United States Environmental
11 Protection Agency
12 Region 10

13 _____
14 Director
15 State of Washington,
16 Department of Ecology
17
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27 CONSENT DECREE

-51-